



## Special Highways Committee

**Date** Tuesday 8 October 2019

**Time** 9.30 a.m.

**Venue** Council Chamber - County Hall, Durham

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### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest, if any
4. Application NL43 for Village Green Registration - Romalldkirk, County Durham - Report of Head of Legal and Democratic Services (Pages 3 - 194)
5. Such other business, as in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Helen Lynch**

Head of Legal and Democratic Services

County Hall

Durham

30 September 2019

To: **The Members of the Highways Committee**

Councillor C Kay (Chair)

Councillor S Morrison (Vice-Chair)

Councillors D Bell, H Bennett, G Bleasdale, J Chaplow,  
J Considine, S Dunn, D Hicks, K Hopper, S Hugill, K Liddell,  
O Milburn, R Ormerod, J Rowlandson, P Sexton,  
J Shuttleworth, A Simpson, K Thompson, J Turnbull and  
M Wilson

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**Contact:** Michael Turnbull

**Tel:** 03000 269 714

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## Highways Committee

8 October 2019

Application NL43 for Village Green  
Registration – Romaldkirk



## Report of Helen Lynch, Head of Legal and Democratic Services

### Electoral division(s) affected:

Barnard Castle West

### Introduction

1. The Council is the registration authority for Town and Village Greens (TVG) under the Commons Registration Act 1965 and the Commons Act 2006 and the function of determining TVG applications falls to the Highways Committee under the Council's Constitution. The Council must act impartially in its determination of TVG applications.

### Purpose of the Report

2. To advise the Committee in determining an application to register land at Romaldkirk, County Durham as a Town or Village Green, under the provisions of the Commons Act 2006.

### Executive summary

3. An application was made to the Council on behalf of Romaldkirk Parish Council to register a parcel of land at Romaldkirk as a village green (the Application).
4. Members of the Highways Committee resolved on 13 September 2018 that the Application should be considered by an independent inspector (Inspector) at a non-statutory public inquiry.
5. The public inquiry was held on 30 April and 1 May 2019. The Inspector has now produced her report making recommendations in respect of the Application.
6. Members of the Highways Committee are now asked to determine the Application.

### Recommendation

7. It is recommended that (for the reasons outlined in this report) Members resolve to **REFUSE** the Application to register the Application Land as a Town or Village Green.

## Background

8. The Application was made by Romaldkirk Parish Council, acting through its chair, Lesley Cutting (the Applicant). A copy of the Application, excluding the supporting user evidence, is attached at **Appendix 1**.
9. The Application was dated 11 September 2016 and was accompanied by a plan showing the area claimed as town or village green (the Application Land) as well as 2 statements in support from users of the claimed TVG. The Application Land is shown edged and hatched in red at **Appendix 2**. The Application was given the reference number NL43 by the Council.
10. A copy of all of the user evidence submitted in support of the Application is attached at **Appendix 3**.
11. As required by Regulations, notice of the Application was published on the Council's website and in the Teesdale Mercury newspaper and a site notice was also erected.
12. Notice of the Application was also given to the owner of the Application Land and a copy of the Application was also placed on deposit with Romaldkirk Parish Council, for public access.
13. Five objection letters were received in respect of the Application. Copies of the letters of objection are attached at **Appendix 4**.
14. The Applicant was given an opportunity to comment upon the objections received and on 19 February 2017 10 further letters in support of the Application were submitted. Copies of these letters are attached at **Appendix 5**.
15. On 11 May 2018 and 2 July 2018, the solicitor acting on behalf of the Commons Registration Authority wrote to both the Applicant and the occupants of the property adjacent to the Application Land. The letters expressed concerns in respect of the use of the Application Land and invited further representations. Copies of these letters are attached at **Appendix 6** and the 1930 Deed is attached at **Appendix 7**.
16. On 27 July 2018 the Applicant submitted 10 further statements in support of the Application together with an Opinion from a barrister responding to the issues raised in the letters. Copies of the further statements are attached at **Appendix 8** and the Counsel's Opinion is attached at **Appendix 9**.
17. On 13 September 2018, this Committee, having considered the evidence submitted, resolved to delegate authority to the Head of Legal and Democratic Services to instruct an independent specialist barrister to hold a non-statutory public inquiry to consider the Application and thereafter prepare a report to Members of the Highways Committee setting out her recommendation(s) to Members in respect of the Application.

18. Ruth Stockley, a specialist TVG barrister was appointed as the Inspector and a public inquiry was held at the Witham Centre, Barnard Castle on 30 April and 1 May 2019.
19. All interested parties were given the opportunity to give oral evidence at the public inquiry.
20. Following the conclusion of the public inquiry, the Inspector produced her report for members of the Highways Committee. A copy of the report is attached to this report at **Appendix 10**.

## **Main implications**

21. The decision on the Application is a matter for this Committee having had regard to all relevant information before it.

## **The Law**

### **The Commons Act 2006**

22. The Commons Act 2006 is the statutory regime governing village greens. Section 15 of the Act sets out the requirements which must be met if the Application Land is to be registered as a TVG. The determination of the Application must focus on whether a village green has come into existence as a matter of law.
23. The Application was made under section 15(1) of the Commons Act 2006 which states that:

*“Any person may apply to the Commons Registration Authority to register land... as a town or village green if subsection (2)... applies.”*

Subsection 2 provides that a TVG has come into existence where:

- (a) *A significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports or pastimes on the land for a period of at least 20 years; and*
- (b) *They continue to do so at the time of the application.”*

24. The definition in Section 15 can therefore be broken down into the following six elements:

24.1 “...a significant number...” – Significant does not necessarily mean substantial or considerable in number. It is necessary to show a general use by the local community as opposed to mere occasional use by trespassers. That is not assessed by a simple headcount of users. There is no need for an applicant to demonstrate a geographical spread of users within the locality.

- 24.2 “...of the inhabitants of any locality...” – This is not defined by any arbitrary margins but must be a recognised county division such as a borough, parish or manor, therefore an ecclesiastical parish can be a locality as required by section 15(2).
- 24.3 “...or any neighbourhood within a locality...” – A neighbourhood must be clearly defined and have a sufficient cohesiveness. It must also be within a locality.
- 24.4 “...have indulged as of right...” – Use “as of right” is use without permission, secrecy or by force. The key issue in user ‘as of right’ is not the subjective intentions of the users but how the use of the land would appear, objectively, to the land owner. Use is “as of right” if it would appear to the reasonable landowner to be an assertion of a right. Permission by the land owner, perhaps in the form of a notice on the land, would mean that the use is not as of right. Equally, use by force, such as where the user climbs over a fence or other enclosure to gain access to the land would not be use as of right. An example of a secret use could be where the use takes place exclusively under the cover of darkness such that it would not be reasonable to expect a landowner to become aware of it.
- 24.5 “...in lawful sports and pastimes on the land...” – This is very broadly interpreted so that general recreational use including walking with or without dogs, children’s play, playing games, picnicking, camping etc would all be included. However, it is important to distinguish mere use or assertion of a public right of way from use for lawful sports and pastimes. The Courts have said that if use could give rise to a public right of way, then whether it should be regarded as mere use/assertion of a public right of way or a qualifying lawful sport/pastime will depend upon how such use would have appeared to a reasonable landowner.
- 24.6 “...for a period of at least 20 years...” – The fulfilment of the 20 years continuous use must immediately precede the date of the application.

### **Burden and Standard of Proof**

25. In order for an application to be successful each aspect of the requirements of section 15(2) must be strictly proven and the burden of proof in this regard is firmly upon the Applicant. The standard of proof to be applied is ‘on the balance of probabilities.’ Therefore, the Applicant must demonstrate that all the elements contained in section 15(2) of the Commons Act 2006 have been satisfied.
26. It is instructive when deciding if an applicant has discharged the burden of proof to have regard to the words of Lord Bingham in **R v Sunderland City Council ex parte Beresford [2004]** as follows:

*‘It is no trivial matter for a landowner to have land, whether in public or private ownership registered as a town green...It is accordingly necessary that all ingredients of the definition should be met before land is registered and decision*

*makers must consider carefully whether the land in question has been used by inhabitants of the locality for indulgence in what are properly to be regarded as lawful sports and pastimes and whether the temporal limit of 20 years' indulgence or more is met.'*

### **Assessment of the Evidence in respect of the Application**

27. The Inspector thoroughly assessed the Application and has tested the evidence at a public inquiry. Applying each of the elements of the Section 15 definition to the facts of the application the Inspector has concluded as follows:

#### **The Land**

28. The Application Land is identified on the map attached at **Appendix 2**. The Application Land has clearly defined and fixed boundaries, and there was no dispute at the Inquiry nor in any of the evidence adduced that that area of land comprises "land" within the meaning of section 15(2) of the 2006 Act. The Inspector therefore concluded that the Application Land was 'land' for the purposes of section 15(2) of the Commons Act 2006.

#### **Relevant 20 Year Period**

29. The Inspector found that the relevant 20-year period for the purposes of section 15(2) was October 1996 until October 2016.

#### **Locality or Neighbourhood within a Locality**

30. The Application Form confirmed that the 'locality' or 'neighbourhood within a locality' relied upon in respect of the Application was "Romaldkirk, Barnard Castle". At the Inquiry, it was confirmed that the Applicant relied upon the locality of Romaldkirk, rather than on a neighbourhood.
31. The Inspector found that Romaldkirk is a village and a parish. As such, it is a recognised and established administrative area with fixed and identifiable boundaries, namely the Parish Council boundaries, and is an area known to the law. The Inspector noted that there was no dispute at the Inquiry that Romaldkirk amounts to a 'locality'. Consequently, she found that Romaldkirk was a qualifying locality for the purposes of section 15(2) of the 2006 Act.

#### **Use of Land for Lawful Sports and Pastimes**

32. The Inspector considered whether the Application Land had been used for lawful sports and pastimes during the relevant 20-year period.
33. Having considered all of the evidence, the Inspector concluded that the Application Land had been used for some recreational activities by local inhabitants of Romaldkirk during the relevant 20-year period.
34. The Inspector had regard to the objector's evidence that they and their family and friends have used the Application Land for recreational activities from time to time. As they are not the owners of the Application Land and are local

inhabitants of Romaldekirk, their use is properly regarded as part of the qualifying use. Further, it was acknowledged by the Inspector that the Application Land had been used post June 2016 by local residents, which is within the relevant 20 year period.

35. Having considered the totality of the evidence of the use of the Application Land, the Inspector found that the use of the Application Land was sufficient to demonstrate that some lawful sports and pastimes have taken place on the Application Land in the relevant 20-year period within the meaning of section 15(2) of the 2006 Act.

### **Use of Land for Lawful Sports and Pastimes by a Significant Number of the Inhabitants of the Locality for at least 20 Years**

36. In assessing the extent of the use of the Application Land, the Inspector discounted any non-qualifying uses. Such use included uses which took place outside the relevant 20-year period.
37. The Inspector found that, having heard the evidence, the primary use of the Application Land had been for dog walking, with the vast majority of users simply walking across the Application Land as part of a longer walk.
38. The Inspector afforded particular weight to the fact that no witness gave evidence that they had used the Application Land as a destination for dog walking. There was no evidence of anyone going to the Application Land to walk their dog round the edge of it a few times, or of throwing a ball for their dog on the Application Land, or otherwise exercising their dog on the Application Land for any period of time other than to walk across it to continue their walk.
39. The Inspector also found that it was necessary to treat some of the written evidence that the Application Land has been used for dog walking with some caution because the impression she gained from the evidence of witnesses in relation to dog walking on the Application Land was that in a number of instances the user walked on the road whilst the dog wandered off onto the Application Land in the course of the walk.
40. In addition, the Inspector found that the use of the Application Land for dog walking, despite being the primary recreational use of the Application Land, was nonetheless relatively limited in terms of both the number of users and the very short period of time users would spend on the Application Land in the course of crossing it.
41. The Inspector found that there was a distinct lack of any evidence that the Application Land was used as a destination by any walkers to walk around or to spend time experiencing its amenity. She found that the very nature of the Application Land and its location in relation to Sennings Lane is such that it would be expected that people would walk over it from time to time simply to cut that corner.

42. In conclusion the Inspector found that some of the use of the Application Land for walking and dog walking was more akin to the exercise of a right of way than the exercise of a right to recreate over the Application Land.
43. As a result, the Inspector felt that the majority of such use ought to be discounted accordingly. However, even if none of such use is so discounted, it was the Inspector's opinion from the evidence, that the use of the Application Land for walking, whether with or without dogs, was very limited both in frequency and the amount of time users were on the Application Land.
44. The Inspector also considered the evidence that at times, the Application Land was difficult to access due to the planting which existed at times which fell within the relevant 20-year period.
45. As such, the Inspector considered that although it may still have been physically possible to access the Application Land, the use of the Application Land for walking significantly declined for a material period of time during the relevant 20 year period.
46. The Inspector also considered that the other uses of the Application Land such as horse-riding, personal training or children's play. Taking all the evidence in its totality, both oral and written, in relation to all the claimed recreational uses of the Application Land during the relevant 20-year period, it was the Inspector's firm view that the qualifying use over the 20-year period was, at its highest, irregular and sporadic rather than of such a nature that would indicate to a landowner that recreational rights were being asserted over the Application Land. Consequently, she found that it has not been demonstrated that the qualifying use was by a significant number of the inhabitants of the locality of Romaldkirk throughout the relevant 20-year period, and concluded that that element of the statutory criteria has not been established.

### **Use as of Right**

47. The Inspector also considered whether the use of the Application Land had been "as of right" during the relevant 20-year period, namely without stealth, without force and without permission.

#### *Nec clam*

48. There was no suggestion in any of the evidence that any of the use was by stealth. On the contrary, the Inspector found that the use which occurred was carried out openly during daylight hours and without any element of secrecy. She therefore found that the use of the Application Land relied upon in support of the Application had been *nec clam*.

#### *Nec vi*

49. The Inspector found that there was no evidence that the qualifying use itself which took place was carried out with force, such as by climbing over a fence or being contrary to a sign or being contrary to challenges. She therefore found that

the use of the Application Land relied upon in support of the Application had been *nec vi*.

*Nec precario*

50. The Inspector considered the effect of the Deed dated 4 September 1930.
51. The Inspector found that the 1930 Deed conferred rights of common on the villagers of Romaldkirk over a number of parcels of land, including the Application Land, comprising waste land of the Manor of Romaldkirk. It also conferred a right of access to the villagers to all such land. The Deed expressly provided that section 193 of the Law of Property Act 1925 applied to it. The rights of access to the Application Land under the Deed were enshrined in that provision. Section 193(1)(d)(i) provides that such rights of access shall cease to apply to any land over which the commonable rights are extinguished under any statutory provision. The commonable rights over the Application Land referred to in that Deed, and hence the rights of access, were extinguished on 31 July 1970 by virtue of section 1 of the Commons Registration Act 1965 as they were not registered by that date. Consequently, the Inspector found that the express permission for villagers to access the Application Land was extinguished by operation of the law on that date.
52. There was no suggestion in the evidence or submissions of any other express or implied permission being given for the use of the Application Land for recreational purposes. Therefore, the Inspector found that the use of the Application Land relied upon in support of the Application has been *nec precario*.

**Continuation of Use**

53. The Inspector considered that the qualifying use was continuing as at the date of the Application.

**Overall Conclusions**

54. The Inspector's overall conclusions were as follows:-
  - That the Application Land comprises land that is capable of registration as a town or village green in principle;
  - That the relevant 20-year period is October 1996 until October 2016;
  - That the locality of Romaldkirk amounts to a qualifying locality;
  - That the Application Land has been used for some lawful sports and pastimes during the relevant 20-year period;
  - That the use of the Application Land for lawful sports and pastimes has been carried out as of right;
  - That the Application Land has not been used for lawful sports and pastimes by a significant number of the inhabitants of the claimed qualifying neighbourhood throughout the relevant 20-year period; and

- That the use of the Application Land for lawful sports and pastimes continued up until the date of the Application.

55. In view of those conclusions, the Inspector recommended that the Committee should reject the Application and should not add the Application Land or any part of it to its register of town and village greens for the reasons contained in her report (and summarised in this report), and on the specific ground that the Applicants have failed to establish that the Application Land has been used for lawful sports and pastimes as of right by a significant number of the inhabitants of a locality or neighbourhood within a locality throughout the relevant 20-year period.

## **Conclusion**

56. The Inspector has carefully considered all of the evidence and has recommended that the Committee refuse the Application for the reason outlined in paragraph 55 above.

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**Contact:** Clare Cuskin

Tel: 03000 269723

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## **Appendix 1: Implications**

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### **Legal Implications**

The decision may be challenged. However, steps have been taken to minimise this risk. All parties have been given full opportunity to make representations and appear at the Committee meeting. The Application has been assessed by an independent TVG barrister.

### **Finance**

N/A

### **Consultation**

All statutory consultation requirements have been complied with.

### **Equality and Diversity / Public Sector Equality Duty**

The Council's Public Sector Equality Duty has been considered. No impacts have been identified.

### **Human Rights**

The recommended decision is in line with domestic legislation and is Human Rights Act compliant. The parties have been afforded an opportunity to make representations and to speak at the Committee Meeting.

### **Crime and Disorder**

N/A

### **Staffing**

N/A

### **Accommodation**

N/A

### **Risk**

N/A

### **Procurement**

N/A

## Commons Act 2006: Section 15

## Application for the registration of land as a Town or Village Green

Official stamp of registration authority  
indicating valid date of receipt:

Commons Act 2006  
Commons Registration Authority  
20 OCT 2016

Application number:

NL43

Register unit No(s):

VG number allocated at registration:

VG 10 40

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

## 1. Registration Authority

To the

DURHAM COUNTY COUNCIL

**Note 1**  
Insert name of  
registration  
authority.

D

**2. Name and address of the applicant**

**Note 2**

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

Name:

Full postal address:

Postcode

Telephone number:   
(incl. national dialling code)

Fax number:   
(incl. national dialling code)

E-mail address:

**3. Name and address of solicitor, if any**

**Note 3**

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

Name:

Firm:

Full postal address:

Post code

Telephone number:   
(incl. national dialling code)

Fax number:   
(incl. national dialling code)

E-mail address:

**4. Basis of application for registration and qualifying criteria**

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**:

If the application is made under **section 15(1)** of the Act, please **tick one** of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

**Section 15(2)** applies:

**Section 15(3)** applies:

**Section 15(4)** applies:

If **section 15(3) or (4)** applies please indicate the date on which you consider that use as of right ended.

If **section 15(6)\*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

**Note 4**

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

\* Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.

**5. Description and particulars of the area of land in respect of which application for registration is made**

Name by which usually known:

AREA OF LAND IS WITHIN  
THE REGISTERED VILLAGE GREEN  
KNOWN AS MIDDLE GREEN

Location:

ROMALDKIRK  
BARNARD CASTLE

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) \*

**6. Locality or neighbourhood within a locality in respect of which the application is made**

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

ROMALDKIRK  
BARNARD CASTLE

Tick here if map attached:

EXHIBIT SHOWN AS

A

AND AREA HATCHED REF 

**Note 5**

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

\* Only complete if the land is already registered as common land.

**Note 6**

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

**7. Justification for application to register the land as a town or village green**

**Note 7**

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

The area as shown on the  
the 1930 plan has been  
misdrawn on the plan submitted  
for registration in 1967.

This was then put onto the  
ordnance survey map for 1967  
Register of village greens

The area in question has been  
identified on the enclosed  
plans.

**Note 8**

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

**Note 9**

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

**Note 10**

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

**8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green**

OWNER	LORD OF THE MANOR RT REVD NICHOLAS BANK BISHOP OF LEEDS
OCCUPIER	ROMALOVICRU PARISH COUNCIL

**9. Voluntary registration – declarations of consent from ‘relevant leaseholder’, and of the proprietor of any ‘relevant charge’ over the land**

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**10. Supporting documentation**

Doc 1,	DEED OF DECLARATION DATED 1930 including plan
Doc 2,	Hand drawn plan of village showing incorrect representation of the area in question 1967
Doc 3,	Plan of registered Village-green 1967 showing the omission of this part of the green

**11. Any other information relating to the application**

**Note 11**

If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

Further supporting documentation :-  
H Letter From Miss Culty to to  
Bishop of Leeds  
S Reply from the Bishop of Leeds  
B, Letter From the Lord of the  
Manor to Romuldkirk Paroch  
Council Dated 11.2.97

**Note 12**

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

Date:

11 | 9 | 16

Signatures:

[Redacted signature area]

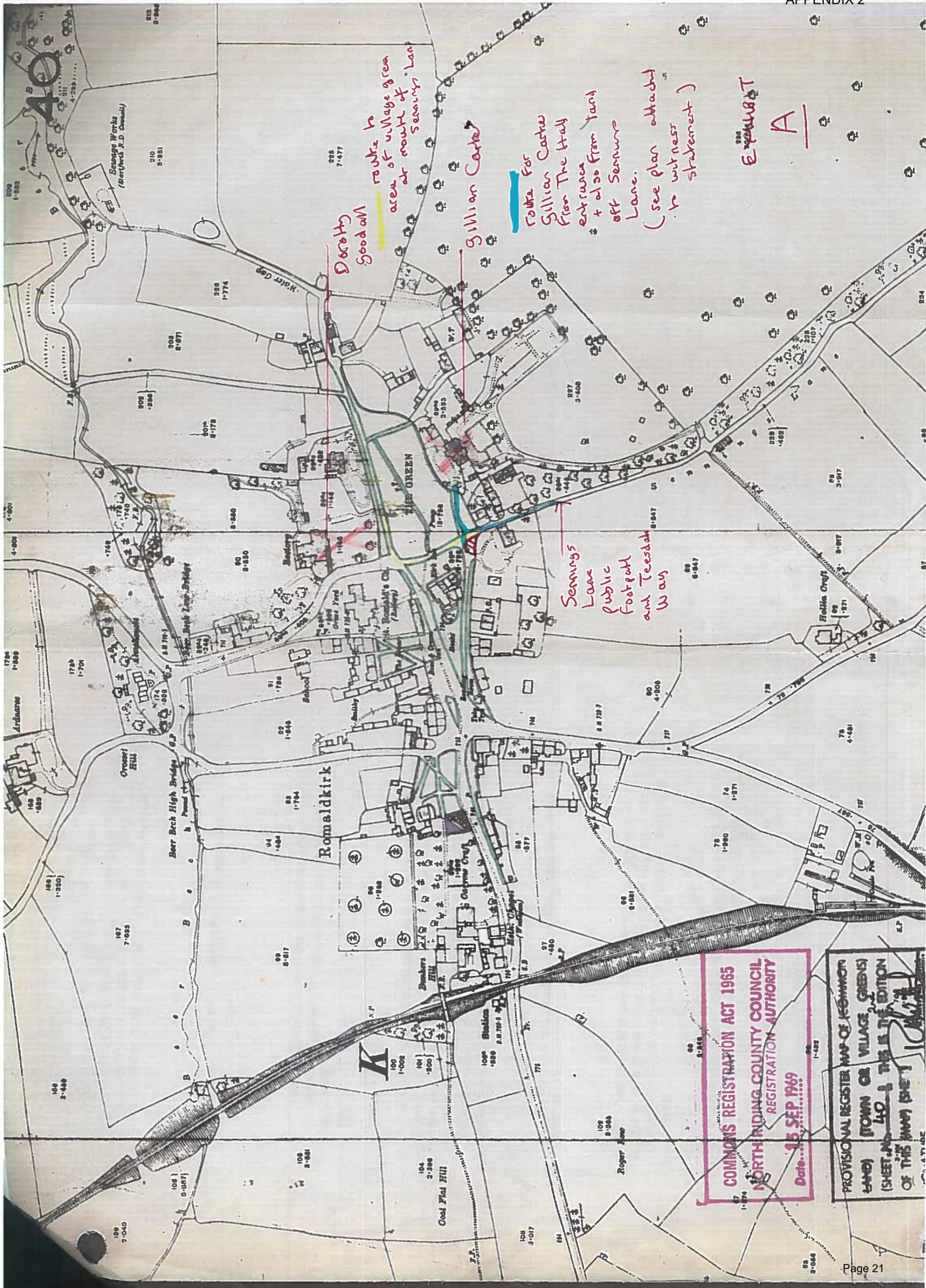
**REMINDER TO APPLICANT**

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

**Data Protection Act 1998**

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

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Dorothy Goodall

route to village green area of mouth of Sennings Lane

Gillian Carter

route for Gillian Carter from The Hall entrance + also from land off Sennings Lane. (see plan attached to witness statement)

EXHIBIT A

Sennings Lane Public Footpath and Treadle Way

COMMONS REGISTRATION ACT 1965  
NORTH RIDING COUNTY COUNCIL  
REGISTRATION AUTHORITY  
Date... 15 SEP 1969

PROVISIONAL REGISTER MAP OF (COMMONS) (TOWN OR VILLAGE GREENS) (SHEET NO. 40) & THIS IS THE EDITION OF THIS MAP (SHEET NO. 1)

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**EVIDENCE QUESTIONNAIRE  
IN SUPPORT OF CLAIM FOR  
REGISTRATION AS A NEW GREEN**

**COMMONS ACT 2006**

25a Bell Street, Henley-on-Thames  
Oxfordshire RG9 2BA

Email: [hq@oss.org.uk](mailto:hq@oss.org.uk) Website: [www.oss.org.uk](http://www.oss.org.uk)

(registered in England and Wales, limited company number 7846516, registered charity: 1144840)

**(Please return this form to the applicant not to the Open Spaces Society)**

April 2013

**EVIDENCE QUESTIONNAIRE IN SUPPORT OF REGISTRATION AS  
A NEW GREEN**

NAME	Gillian Carter	
ADDRESS	The Wall, Romaldkirk Barnal Castle	
POSTCODE	DL12 9ED	TELEPHONE NO 

**THE CLAIMED LAND**

1.	Address when you used the land (if different from above) (The land in this form means 'the claimed land'.)	As above
2.	Did you sign the reverse side of 'Map A' confirming it shows the land being claimed as a green? (Map A is the map showing the claimed land)	<input checked="" type="radio"/> Yes/ <input type="radio"/> No
3.	By what, if any, name is the land shown on 'Map A' known?	The Green
4.	Has it ever to your knowledge been known by any other name? If so, what name?	No always The Green
5.	For how many years have you known the land?	From 1985 to 2016

**LOCALITY/NEIGHBOURHOOD WITHIN A LOCALITY**

6.	Is there a map attached showing the area where people who use the land come from? (neighbourhood within a locality or locality)	<input checked="" type="radio"/> Yes/ <input type="radio"/> No
7.	Mark the location of your house with an X on the map	Marked Red Hatched

8.	Does the locality or neighbourhood have a name, if so please include	Yes/No Romaldthorpe
9.	Do you live within this defined area	Yes/No
10.	Where do the people who use the land come from?	People using the Rose + Crown Hotel Kirk Inn and locals
11.	What recognisable facilities are available to the inhabitants of your locality? Please tick all boxes that apply and add any OTHER additional matters not covered.	Also walkers coming along the Teeside way (Sennings Lane) Marked green on the attached plan

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> School catchment area local school | <input checked="" type="checkbox"/> Area policeman       |
| <input type="checkbox"/> Residents' association                        | <input type="checkbox"/> Doctor's surgery                |
| <input checked="" type="checkbox"/> Community centre                   | <input checked="" type="checkbox"/> Community activities |
| <input checked="" type="checkbox"/> Local church or place of worship   | <input type="checkbox"/> Neighbourhood watch             |
| <input type="checkbox"/> Sports facility                               | <input type="checkbox"/> A central feature               |
| <input type="checkbox"/> Local shops                                   | <input type="checkbox"/> Scout hut                       |
|  | <input type="checkbox"/> Other (please state)            |

**'AS OF RIGHT' HAS USE BEEN WITHOUT PERMISSION, SECRECY OR FORCE?**

12.	To your knowledge are there any public paths crossing the land?	Yes/No
13.	How do/did you gain access to the land?	Walk across it onto it
14.	Do you know who the owner/occupier is? Supply details	Yes/No The Bishop of Ripon but managed by Romaldthorpe Parish Council
15.	Has the owner/occupier seen you on the land?	Yes/No

16.	What did he/she say? and when was this?	not applicable
17.	Was permission ever sought by you for specific activities on the land?	no
18.	If so, from whom and when, and what for?	not applicable
19.	Did anyone ever give you permission to go onto the land?	no
20.	If yes, when and the reason	/
21.	Have you ever been prevented from using the land?	no
22.	If yes, when and the reason.	/
23.	Has any attempt ever been made by notice or fencing or by any other means to prevent or discourage the use being made of the land by the local people? Please provide dates and the wording of any notices and mark their position on Map A.	no

#### LAWFUL SPORTS AND PASTIMES

24.	Why do you go onto this piece of land?	My land is accessed from Serranobare and I quite often walk over it when going to or leaving my land
25.	How often do/did you use the land?	At least twice per week (see plan)

26.	What activities do you use the land for now?	Walking over
27.	Does your family use the land or have they done so in the past? If so list the activities.	Son used in the past for playing with friends or riding his pony over
28.	Did you see other people using the land? Were they from the locality or neighbourhood?	Yes. Locals + neighbourhood
29.	Do you know of any community activities that take place or have taken place on the land?	Yes Football People standing and chatting.
30.	Please list them and state when and for how long they have taken place.	Romaldkirk Fair events every August since I came to Romaldkirk in 1985 People standing on this
31.	Do you participate in any of them?	area watching the bonfire / Events on the main green (This stopped in about 2005)
32.	Do any organisations use the land for sports or pastimes? If so please specify.	Romaldkirk Fair + Beaman Rally organised by The Church + the
33.	Do any seasonal activities take place on the land?	<del>Reading Room</del> (READING ROOM COMMUNITY) I have emailed photo of people

sitting in this area watching the Beaman Rally this year (2016)

34.	Please tick all the activities that you have seen taking place on the land.	
-----	---	--

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Children playing       | <input checked="" type="checkbox"/> Football        |
| <input type="checkbox"/> Rounders                          | <input type="checkbox"/> Cricket                    |
| <input type="checkbox"/> Fishing                           | <input type="checkbox"/> Bird watching              |
| <input checked="" type="checkbox"/> Drawing and painting   | <input checked="" type="checkbox"/> Picnicking      |
| <input checked="" type="checkbox"/> Dog walking            | <input type="checkbox"/> Kite flying                |
| <input checked="" type="checkbox"/> Team games             | <input checked="" type="checkbox"/> People walking  |
| <input type="checkbox"/> Picking blackberries              | <input checked="" type="checkbox"/> Bonfire parties |
| <input checked="" type="checkbox"/> Community celebrations | <input checked="" type="checkbox"/> Bicycle riding  |
| <input checked="" type="checkbox"/> Fetes                  | <input checked="" type="checkbox"/> Carol singing   |
| <input type="checkbox"/> Other (please state)              |   |

**20 YEARS USE**

35.	Which years have you used the land	From 1985 To 2012
36.	How often did you use the land?	2 to 3 times per week
37.	If you still use the land now, how often do you use it?	2 to 3 times per week
38.	During the time you have used the land has the pattern of use remained the same? If not please supply details	Yes/No

IS USE CONTINUING AT THE DATE OF APPLICATION

39.	How have you accessed the land? (mark on Map A)	Walked From Sennys Lane or From the main entrance
40.	Is the land enclosed?	Yes/No <sup>3</sup>
41.	Have there ever been any stiles or gates? Please mark them on the map.  Has the gate ever been locked? Please supply details  Are the gates/stiles still in place?	NO  Yes/No

OTHER EVIDENCE

42.	Do you have any photographs or any other evidence of use of the land by local inhabitants?	Yes/No <sup>3</sup> emailed to Ms Errington
43.	Are you willing to lend them to us?	Yes/No
44.	If you have additional information please attach a separate statement.	Yes/No Sennys Lane starts <del>at</del> next to the area of village green
45.	If you have knowledge of others who may be in a position to complete an evidence form, would you please write their names and addresses upon the reverse of this form.	Yes/No <sup>3</sup> and is walked over by numerous members of the public
46.	I have carried on the activities referred to in this questionnaire for years without anybody trying to stop me and I believe the activity should be treated by the law as having a lawful origin	YES

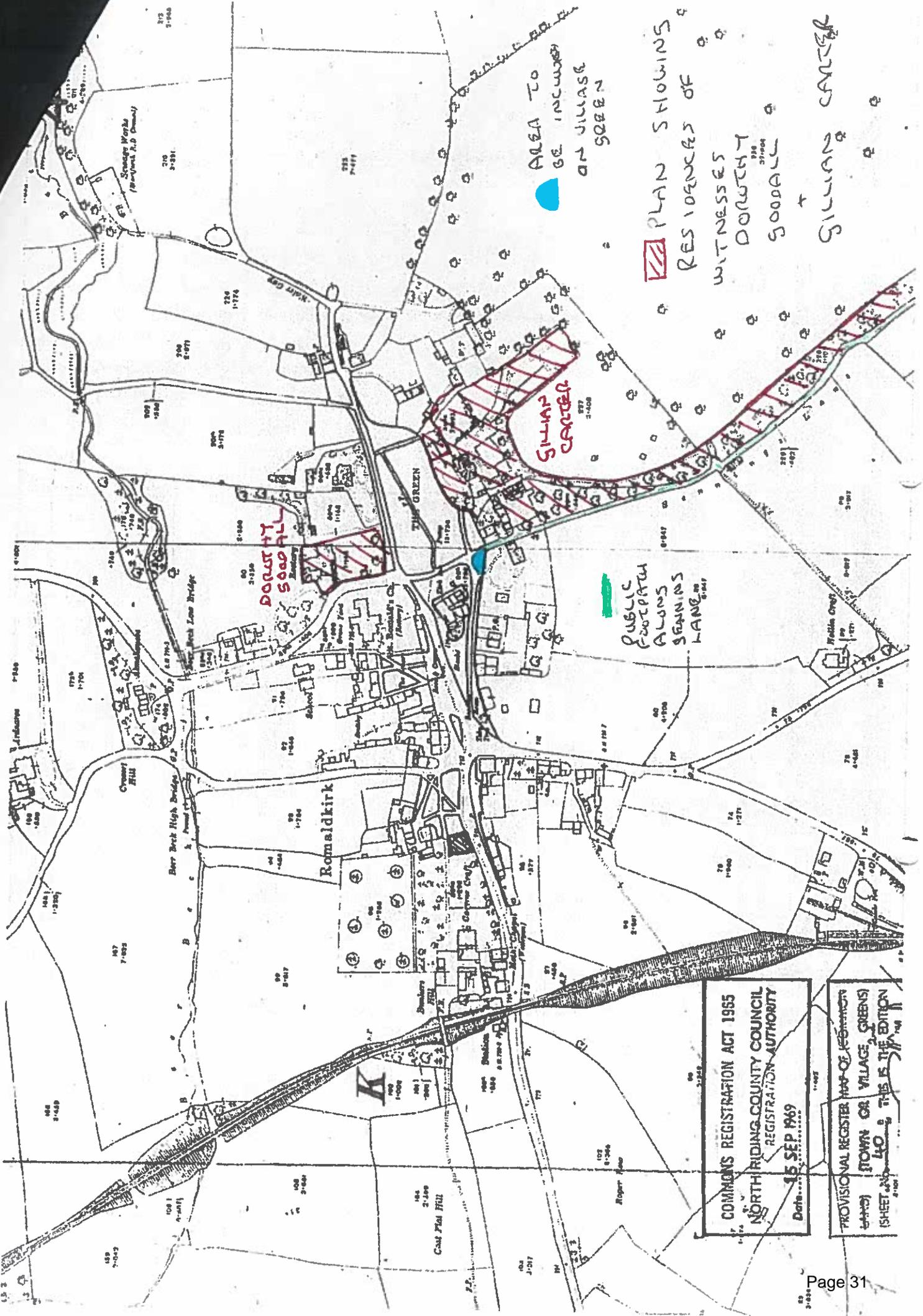
47.	<i>I understand that the evidence form I completed may be used in relation to this application may become public knowledge and I authorise the applicant to disclose this form to anyone reasonably requiring access to this application.</i>	YES
48.	<i>I also understand that this evidence may be presented at a non-statutory inquiry and I authorise the applicant to use this form for that purpose.</i>	YES
49.	<i>Would you be prepared to give oral evidence of your use of the land at a public inquiry?</i>	<input checked="" type="radio"/> Yes <input type="radio"/> No
I certify that to the best of my knowledge and belief, the information I have given in this statement is true.		

Signed



Date ..... 13 / 10 / 16

(Please return this form to the applicant not to the Open Spaces Society)



PLAN SHOWING RESIDENCES OF WITNESSES DOROTHY GOODALL + SILVIA CARTELL

AREA TO BE INCLOSED ON DILIAS BE SEEN

DOROTHY GOODALL

PUBLIC FOOTPATH ALONGS GREENS LANE

COMMONS REGISTRATION ACT 1955  
 NORTH RIDING COUNTY COUNCIL  
 REGISTRATION AUTHORITY  
 Date 15 SEP 1969

PROVISIONAL REGISTER MAP OF REGIMON  
 (TOWN OR VILLAGE GREENS)  
 (SHEET NO. 40) THIS IS THE EDITION



**EVIDENCE QUESTIONNAIRE  
IN SUPPORT OF CLAIM FOR  
REGISTRATION AS A NEW GREEN**

**COMMONS ACT 2006**

25a Bell Street, Henley-on-Thames  
Oxfordshire RG9 2BA  
Email: [hq@oss.org.uk](mailto:hq@oss.org.uk) Website: [www.oss.org.uk](http://www.oss.org.uk)  
(registered in England and Wales, limited company number 7846516, registered charity: 1144840)

**(Please return this form to the applicant not to the Open Spaces Society)**

April 2013

**EVIDENCE QUESTIONNAIRE IN SUPPORT OF REGISTRATION AS  
A NEW GREEN**

NAME	MRS DOROTHY GOODALL	
ADDRESS	ROMALOKIRK HOUSE, ROMALOKIRK	
POSTCODE	DL12 9EE	TELEPHONE NO 

**THE CLAIMED LAND**

1.	Address when you used the land (if different from above) (The land in this form means 'the claimed land'.)	SAME
2.	Did you sign the reverse side of 'Map A' confirming it shows the land being claimed as a green? (Map A is the map showing the claimed land)	<input checked="" type="radio"/> Yes / <input type="radio"/> No
3.	By what, if any, name is the land shown on 'Map A' known?	PART OF MIDDLE GREEN
4.	Has it ever to your knowledge been known by any other name? If so, what name?	NO
5.	For how many years have you known the land?	From 1978... to 2016

**LOCALITY/NEIGHBOURHOOD WITHIN A LOCALITY**

6.	Is there a map attached showing the area where people who use the land come from? (neighbourhood within a locality or locality)	<input checked="" type="radio"/> Yes / <input type="radio"/> No
7.	Mark the location of your house with an X on the map	YES

8.	Does the locality or neighbourhood have a name, if so please include	Yes/No ROMALOKIRK VILLAGE
9.	Do you live within this defined area	Yes/No
10.	Where do the people who use the land come from?	LOCALS FROM ROMALOKIRK AND VISITORS FROM EVERYWHERE
11.	What recognisable facilities are available to the inhabitants of your locality? Please tick all boxes that apply and add any OTHER additional matters not covered.	

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> School catchment area local school | <input type="checkbox"/> Area policeman   |
| <input type="checkbox"/> Residents' association                        | <input type="checkbox"/> Doctor's surgery   |
| <input checked="" type="checkbox"/> Community centre                   | <input checked="" type="checkbox"/> Community activities                          |
| <input checked="" type="checkbox"/> Local church or place of worship   | <input type="checkbox"/> Neighbourhood watch                                      |
| <input type="checkbox"/> Sports facility                               | <input type="checkbox"/> A central feature  |
| <input type="checkbox"/> Local shops                                   | <input type="checkbox"/> Scout hut  |
|  | <input checked="" type="checkbox"/> Other (please state)<br>HOTEL<br>PUBLIC HOUSE |

'AS OF RIGHT' HAS USE BEEN WITHOUT PERMISSION, SECRECY OR FORCE?

12.	To your knowledge are there any public paths crossing the land?	Yes/No
13.	How do/did you gain access to the land?	WALK ON TO IT
14.	Do you know who the owner/occupier is? Supply details	Yes/No THE BISHOP OF LEDES   RIPON
15.	Has the owner/occupier seen you on the land?	Yes/No

16.	What did he/she say? and when was this?	/
17.	Was permission ever sought by you for specific activities on the land?	NO
18.	If so, from whom and when, and what for?	/
19.	Did anyone ever give you permission to go onto the land?	NO
20.	If yes, when and the reason	/
21.	Have you ever been prevented from using the land?	NO
22.	If yes, when and the reason.	/
23.	Has any attempt ever been made by notice or fencing or by any other means to prevent or discourage the use being made of the land by the local people? Please provide dates and the wording of any notices and mark their position on Map A.	NO

#### LAWFUL SPORTS AND PASTIMES

24.	Why do you go onto this piece of land?	WALK MY DOGS SIT TO WATCH BEAMISH RALLY
25.	How often do/did you use the land?	EVERY WEEK

26.	What activities do you use the land for now?	WALK MY DOG	
27.	Does your family use the land or have they done so in the past? If so list the activities.	YES MY 2 CHILDREN PLAYED ON IT WHEN YOUNGER	
28.	Did you see other people using the land? Were they from the locality or neighbourhood?	YES LOCALS HAVE USED IT AS WELL	AS
29.	Do you know of any community activities that take place or have taken place on the land?	TOURISTS ROMALDKIRK FAIR HAVE USED IT EVERY YEAR	
30.	Please list them and state when and for how long they have taken place.	ROMALDKIRK FAIR NOVEMBER 5th Celebration in the past for BEATUSH RALLY	EVERY year 15 years
31.	Do you participate in any of them?	YES	
32.	Do any organisations use the land for sports or pastimes? If so please specify.	ROMALDKIRK CHURCH FAIR + READING ROOMS COMPUTERS	
33.	Do any seasonal activities take place on the land?	ROMALDKIRK FAIR EARLY August BEATUSH RALLY EARLY YEAR	

34.	Please tick all the activities that you have seen taking place on the land.	
-----	---	--

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Children playing     | <input checked="" type="checkbox"/> Football        |
| <input type="checkbox"/> Rounders                        | <input type="checkbox"/> Cricket                    |
| <input type="checkbox"/> Fishing                         | <input type="checkbox"/> Bird watching              |
| <input checked="" type="checkbox"/> Drawing and painting | <input checked="" type="checkbox"/> Picnicking      |
| <input checked="" type="checkbox"/> Dog walking          | <input type="checkbox"/> Kite flying                |
| <input type="checkbox"/> Team games                      | <input checked="" type="checkbox"/> People walking  |
| <input type="checkbox"/> Picking blackberries            | <input checked="" type="checkbox"/> Bonfire parties |
| <input type="checkbox"/> Community celebrations          | <input type="checkbox"/> Bicycle riding             |
| <input checked="" type="checkbox"/> Fetes                | <input checked="" type="checkbox"/> Carol singing   |
| <input type="checkbox"/> Other (please state)            |   |

20 YEARS USE

35.	Which years have you used the land	From 1978 To 2016
36.	How often did you use the land?	SOMETIMES DAILY SOMETIMES 3 TIMES PER WEEK
37.	If you still use the land now, how often do you use it?	AS ABOVE
38.	During the time you have used the land has the pattern of use remained the same? If not please supply details	<u>Yes</u> /No

IS USE CONTINUING AT THE DATE OF APPLICATION

39.	How have you accessed the land? (mark on Map A)	 ROUTE SHOWN YELLOW
40.	Is the land enclosed?	Yes/No
41.	Have there ever been any stiles or gates? Please mark them on the map.  Has the gate ever been locked? Please supply details  Are the gates/stiles still in place?	NO   Yes/No

OTHER EVIDENCE

42.	Do you have any photographs or any other evidence of use of the land by local inhabitants?	Yes/No
43.	Are you willing to lend them to us?	Yes/No
44.	If you have additional information please attach a separate statement.	Yes/No
45.	If you have knowledge of others who may be in a position to complete an evidence form, would you please write their names and addresses upon the reverse of this form.	Yes/No
46.	I have carried on the activities referred to in this questionnaire for years without anybody trying to stop me and I believe the activity should be treated by the law as having a lawful origin	YES

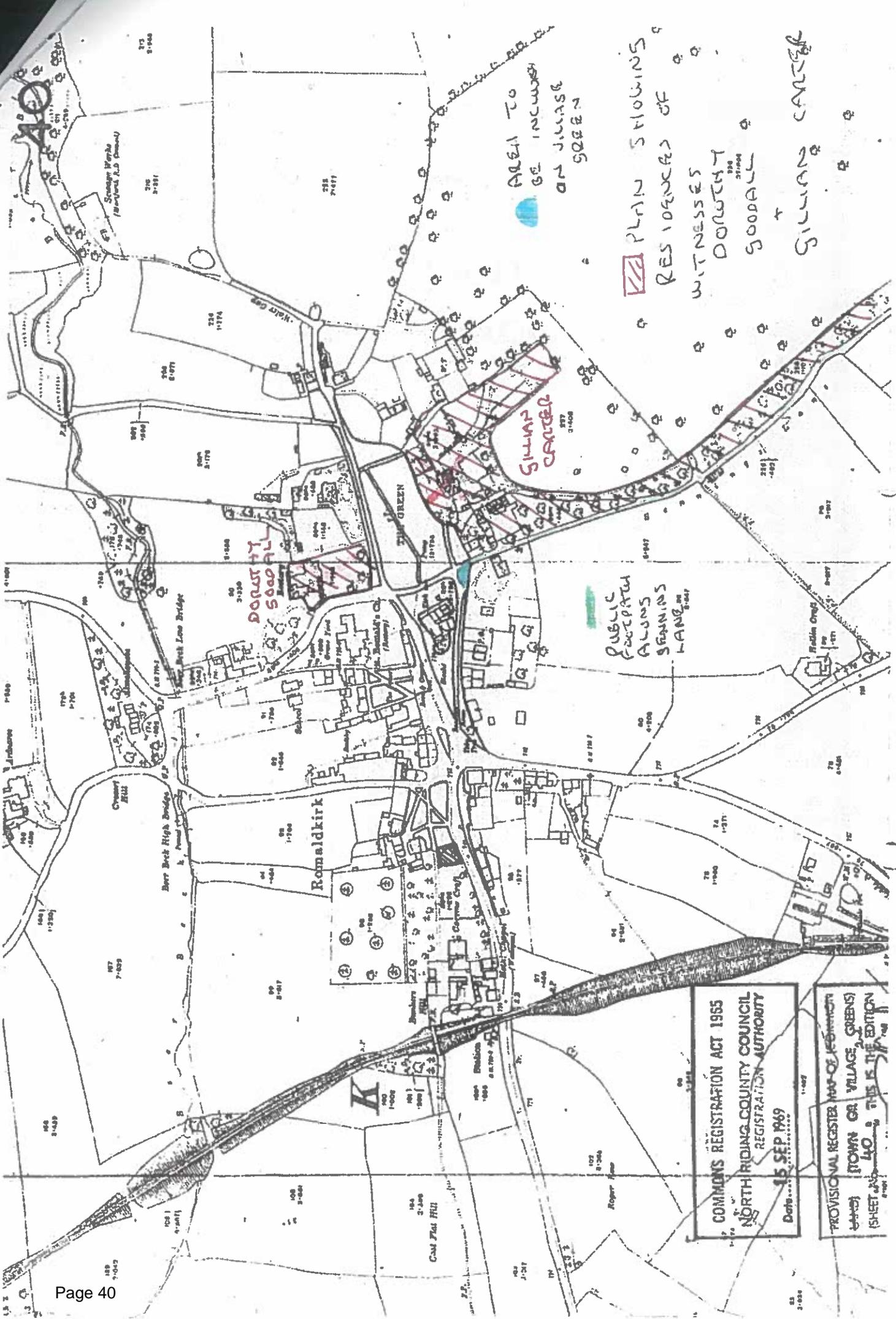
47.	<i>I understand that the evidence form I completed may be used in relation to this application may become public knowledge and I authorise the applicant to disclose this form to anyone reasonably requiring access to this application.</i>	YES
48.	<i>I also understand that this evidence may be presented at a non-statutory inquiry and I authorise the applicant to use this form for that purpose.</i>	YES
49.	<i>Would you be prepared to give oral evidence of your use of the land at a public inquiry?</i>	<input checked="" type="radio"/> Yes / No
I certify that to the best of my knowledge and belief, the information I have given in this statement is true.		

Signed ..



Date ..... 10 / 10 / 16 .....

(Please return this form to the applicant not to the Open Spaces Society)



  PLAN SHOWING RESIDENCES OF WITNESSES DOROTHY GOODALL & SILVIA CARTEL

AREA TO BE INCLOSED ON JULY 6 1969

PUBLIC FOOTPATH ALONG SEAMING LANE

COMMONS REGISTRATION ACT 1955  
 NORTH RIDING COUNTY COUNCIL  
 REGISTRATION AUTHORITY  
 Date 15 SEP 1969

PROVISIONAL REGISTER MAP OF RESIDENCES  
 (TOWN OR VILLAGE, GREENS  
 & COMMONS)  
 SHEET NO. 40. THIS IS THE EDITION

**Jill Errington**

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**From:** [Redacted] >  
**Sent:** 13 October 2016 12:59  
**To:** Jill Errington  
**Subject:** Fwd: photo of area to be included in village green

Dear Jill

Please find attached photo of people watching the Beamish rally this year from the area of land to be included in the village green.

Witness statements are now in the post.

Many thanks

Gill Carter

Sent f

Begin



Sent from my iPhone

This page is intentionally left blank

We acknowledge the application made by Lesley Cutting , supported by Gill Carter and Dorothy Goodall - all of whom are Parish Councillors.

Before we respond to the evidence provided we would like to bring to your attention the Civil Litigation that exists between Gill Carter and ourselves. It concerns vehicular access over Sennings Lane and it is our opinion that this application is an extension of this.

In May 2016 we went before the Court, Gill Carter had made an application for an Emergency Injunction to remove any obstruction which interfered with her vehicles access to fell dangerous trees. Her claim for an Injunction was not ruled on as we voluntarily gave an Undertaking that we would not interfere with her reasonable removal of any obstructions, hoping this would be an end to the matter.

We challenged the element of the claim concerning the very front and exchanged arguments. In the end the Judge stated it was not in his power to give this and as such the map was amended to exclude the front piece of land including the planting.

And yet.....

On 8th June 2016, Gill Carter instructed and accompanied her agents to excavate. They began with our front, the piece of land subject to this application and also that which they were specifically told by the Court not to touch. They removed, to Gill Carters land, in excess of 1.3m of the side of the front piece of land, which included the plants, shrubs and trees and which left our front wall foundations exposed.

In addition they also removed plants and stones that ourselves and Mr Bowen-Jones had placed on the front to protect it. This didn't even feature in any part of Gill Carters application.

We believe the deliberate actions of Gill Carter have been instrumental in paving the way for this application which she now supports.

Further, we subsequently found out that on the day we were at Court and for the first time since we moved to the Village in 1997, we saw evidence of our frontage having been mown by the people who cut the village greens.

On two further occasions they attempted to mow the front and on one of these occasions they were challenged and told us they had been instructed by the Parish Council to cut the grass.

On 4<sup>th</sup> September 2016, my wife saw a man on our front, seemly gardening back & forth to Gill Carters, with a wheelbarrow. Eventually she went out & challenged this man who was weeding the area where the plants, shrubs and trees had been removed who responded saying Gill had asked him clear this area – the same area that my wife has maintained since 1997! It turns out this man is Gill Carters gardener.

Lesley Cutting and Gill Carter are very close friends. It is our opinion that Lesley Cutting is doing Gill Carter's bidding under the rouse of Parish Council business. When our Civil Action resulted in High Court in 2013, Lesley Cutting was a witness for Gill. Prior to this my wife witnessed Lesley Cutting poisoning the plants along our boundary, the very area that

was the subject of Gill Carters action in Court. The poison used was diesel and weed killer. We also witnessed Lesley Cutting uprooting plants along our boundary.

Lesley Cutting has photographed and videoed our home along the full length on a regular basis since about 2013 and even as recently as January 2017. It became necessary to report this to the Police.

Up until May 2016, Lesley Cutting has on a regular basis, almost daily walked her dog along the front of Hall Cottage and then up Sennings Lane, having come from Gill Carters home. Now that the planting on the front has been removed Mrs Cutting now walks across this, taking video's and photographs regularly. She hardly ever comes up Sennings Lane. Obviously, her focus or mission has now changed.

Since the removal of the planting we have observed Mrs Walton and her father, Mr Bond, now crossing the front. Mr Bond behaviour alters if he observes me leaving for work and stays on the road, i.e. he does not cut across the corner of the grass. These are friends of both Lesley Cutting and Gill Carter.

Ms Needham, who lives nearby, walks her dogs around the village, sometimes coming up Sennings Lane, but we have not observed her using the front.

Does not the behaviour of both Lesley Cutting and Gill Carter give cause for concern over conflict of interest?

Included with our response are a range of pictures, which show Lesley Cutting walking past our property using the highway, together a range of individuals some villagers some visitors walking on the highway and not on the front.

My family moved to Romaldkirk in March 1997.

We have never seen Dorothy Goodall use our front as stated. During the Beamish Rally my family and friends sit out on this area and have been joined by Mr Bowen-Jones prior to the decline of his health. Sadly he passed away in October 2015.

The picture submitted by Gill Carter is, I believe, my family. Attached are some pictures taken by our family, which clearly show no one is using this grassed area in front of ours. The checkpoint for the rally has been up by the Village Hall since 2005 at least. The majority of visitors congregate on the middle green (where the stocks are) with the Village Hall selling refreshments and the two pubs also benefiting from the trade. Visitors also gather on middle green (area in front of the Kirk / Caroline Cottage) and also on Low Green, as can be seen from the pictures attached. We have not seen anyone using the front of ours.

It's worth noting that the grassed areas outside Hall Cottage and Dene Lodge are village greens and yet no activity takes place on these.

The Village Fair attracts a lot of visitors as can be seen from the pictures. The main areas used are Low Green, Middle Green on both sides of the Kirk Inn, the area in front of the Village Hall and in the Church.

Visitors making their way down from the Village Hall to Low Green would use the highway, which naturally turns toward Low Green taking you away from our front. It seems rather silly

to come off the highway onto the grass in front of ours to then come off it to get on to Low Green. Certainly while the planting was along the edge (pictures attached) this is what you would have to do. Further, visitors to the village would not be aware of what was / was not village green and we have not seen anyone using the small grassed areas that sit in front of the houses on Sennings Lane – people are generally careful and courteous as they go about the village. It is worth noting that the larger greens have signs saying something like - do not park on the village greens – which would indicate to the reader this is village green. There are no signs on any other areas whether they are village green or not.

Since moving to the village and for a number of years we were involved with the Fair, putting up bunting, participating in setting out and manning the games and stalls. The children when younger involved themselves in the fun of the day. Our family / friends would visit, every year until 2013, having access to our house and garden and would come and go during the day. We have not seen any activities take place on the grass in front of our house. From Low Green the front of our property is clearly in view. Once again, even though the grass in front of Hall Cottage and Dene Lodge are village greens there was no activity taking place on these areas.

No one has ever challenged or approached us telling us that the area in front of ours is used for village activities. Nor have we been asked to cease maintaining our front. Since 1997 we have maintained the front in conjunction with our neighbour, Mr Howard Bowen-Jones, who was already maintaining the front. He made it quite clear to us that this was not village green.

The fireworks was only operational for the first 3 years of when we moved here (1997 – 2000). I recall people gathering outside the Kirk on the grass in view of Low Green. We watched from the front of our home with our friends. We did not see Dorothy Goodall on our front. Dorothy Goodall lives over on the other side of Low Green, in the Old Rectory.

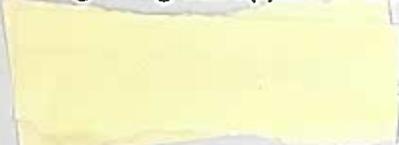
In the years that followed we attended and participated in the fireworks held at the Borers place, White Gates.

Our observation of Gill Carter movements in the village is that she goes out and about in her car. Plenty of times when out on the front / in the garden we would see her and her husband driving past. Occasionally we would see Gill on Sennings Lane (Teesdale Way).

The exception to this however would be the period from approximately 2011 - 2013, when clearly she was preparing to take us to court and she would be out taking photos etc.

Apart from this we have never seen Gill Carter or Ivan Carter use the front in the way she claims.

Regarding this application, we believe this to be nothing more than collusion.

  
Mr and Mrs Webb

Rose Gate Cottage  
Ronald Kirk



Jan 2011 – showing stones to edge of our front



6 Nov 2014 - planting that has been removed



27 Feb 2011 – planting to edge of our front



25 Nov 2011 – planting to edge of our front



Taken August 2014 on right is planting to edge of grass in front of ours



Taken September 2014 showing planting to edge of grass in front of ours



Taken May 2016 showing planting to edge of grass prior to Mrs Carter removing this illegally



**My family on our front taken on day of Rally 2016.**



**Taken on day of Rally 2016. Grass in front of our property with my family sitting on it. On road visitors using the highway to get around the village. Cottage in distance again has nothing on front despite this also being Village Green.**



Taken on day of Rally 2016. Left – my family. Centre: Church in background, middle green in front with people sitting on green and visitors on the road (same ones from previous photo). Right – Low Green with cars parked around and on it. Right foreground – Grass out front of Hall Cottage



Taken day of Rally in 2016. Foreground our front leading to green in front of Hall Cottage which has nothing on despite it being Village Green. Then Low Green with cars parked on it.

£ 29.99

£ 39.99

£ 39.99

£ 149.99

no need to

Website

Magazines, newsletters and books

X



Romaldkirk, County Durham, England, UK.

20th August 2006

NO

Location

Date taken

Digitally altered



Lesley Cutting passing using highway



Local villager with dog on highway having come from the Lane (Teesdale Way – on right out of picture)



Walker on highway



Lesley Cutting with dog, speaking with two local villagers on highway.



Walker using highway heading in direction of Village Hall



Walker using highway



Walker using highway



Lesley Cutting and dog using highway



Walker using highway



Walker on highway



Walkers on highway



Local villager using highway



Walkers using highway in front of ours



Walkers using highway



Walker with pram on highway



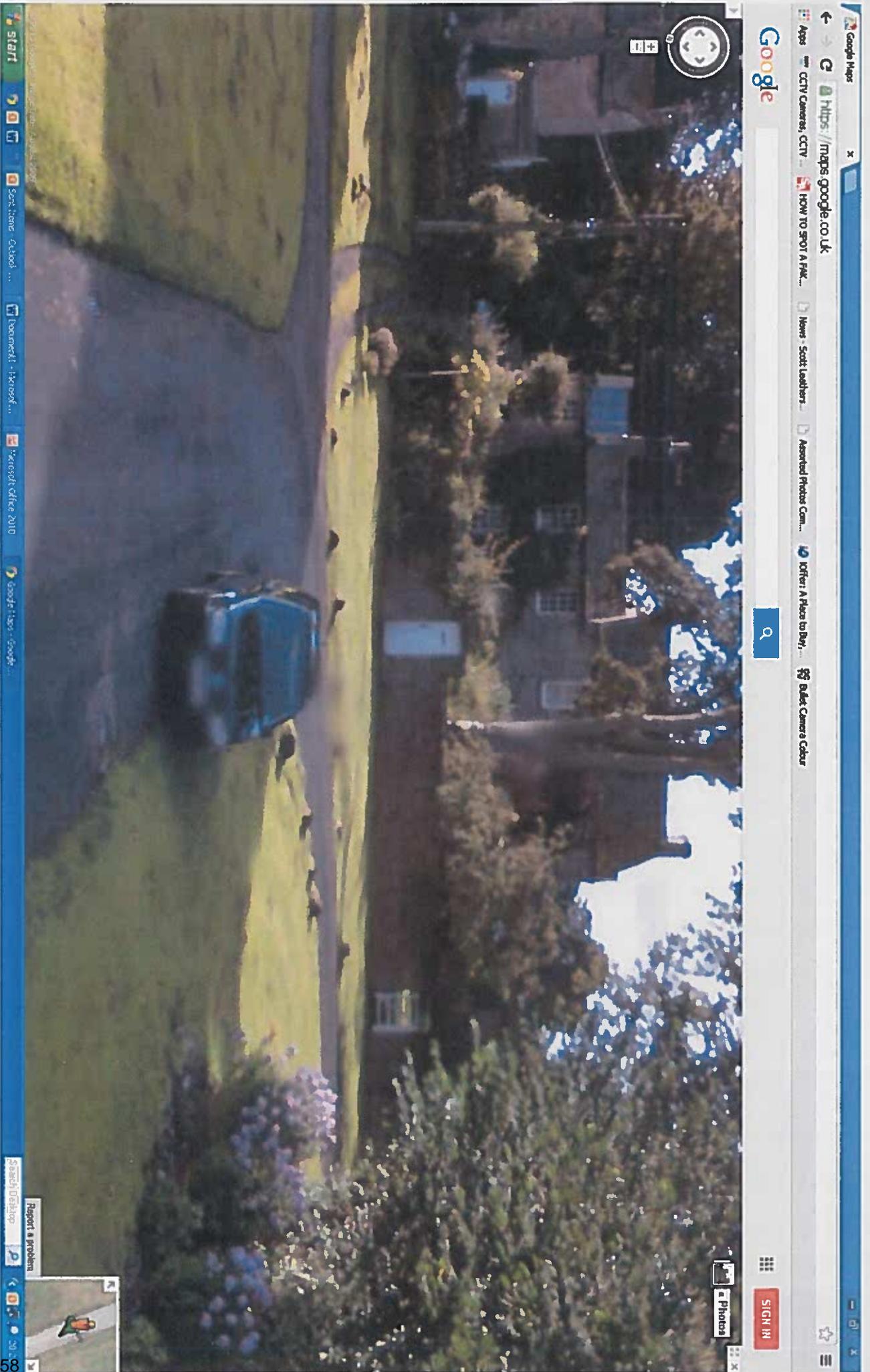
Lesley Cutting walking dog using highway



Gill Carter walks across front of Hall Cottage and then goes up Lane (see next picture)



Gill Carter walking up Lane



Screen shot from Google – Street View. Image Date August 2009

Taken 2006



Building  
Materials

Middle  
Green

Taken 2013



Low Green

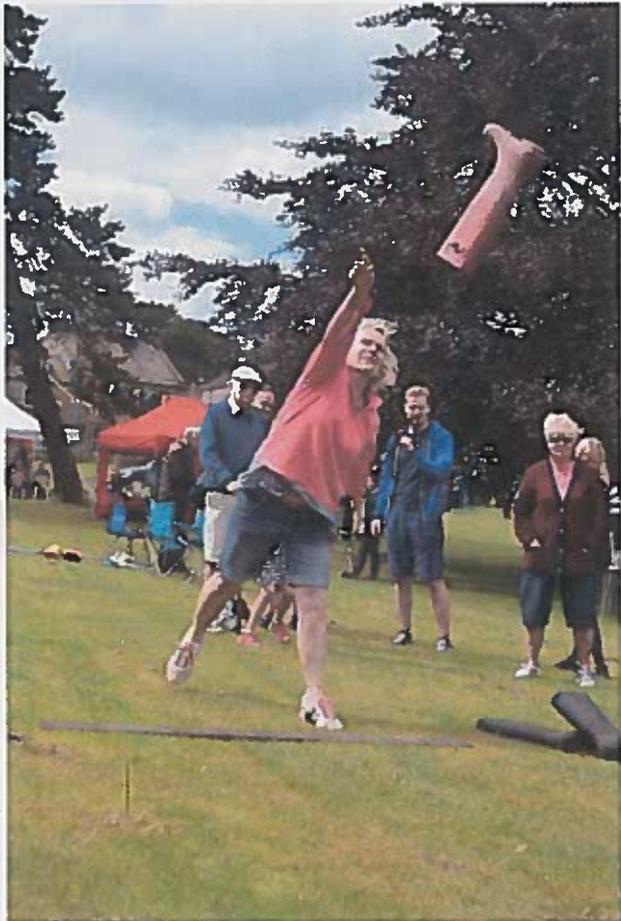
Caroline  
Cottage  
+  
Kirk Inn



My daughter and cousin. Taken on  
day of Fair, approximately 1998



Taken by Hector Parr – 2009. Village Fair on Low Green.



Village fair 2015 – Taken on Low Green toward Kirk Inn



Village Fair – Taken around 2005. On Middle Green with Rose and Crown PH behind



Village Fair – Taken around 2005. On Middle Green with Kirk PH in background (Left). Sennings Lane on right which leads down to Rose Stile and Rosestile Cottage.

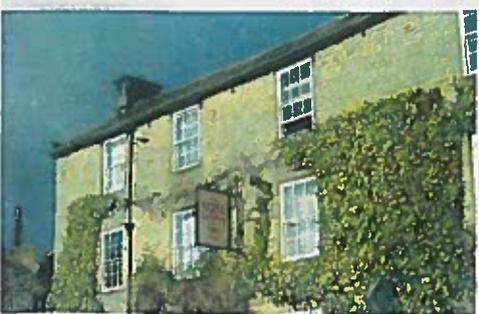


Rally in Village. Checkpoint with Rose and Crown PH and Middle Green behind

# Romaldkirk Parish Plan 2006



*Low Green*





# Romaldkirk Fair

Pictures from a weekend of fun



*Outside Village Hall*  
*how green - the leg on night is Mr Webb*



Ally and Ben with Wanda, Sarah, Tommie, E. Joseph, Elizabeth, 6 months and Francis Richardson



Fun and games: There were many fairground attractions, including a Saturday afternoon



Olympic gold medalist Megan



With Clara, Frances, J

Barbie Swain Laket, Kelly

Report and more pictures next week



Freda, Mollie, Pippa, Mollie, J

Hot days: Enjoying an afternoon

Clouetras, Kay, Phoenix, J

**Start your own Business** **enterprise the agency** TEESSDALE

Come to our Enterprise Workshops  
**INTRODUCTORY EVENING**  
Thursday, 1st September, 6 - 8 p.m.

Legal issues   Marketing   Financial management   Basic bookkeeping   Pricing advice   Employing staff

These workshops are free and take place fortnightly on Tuesday evenings from 6pm to 8.30pm at Enterprise House

For further details and to book your free place please contact Janet or Rebecca on 01833 696600

**Charltons**  
Chartered Surveyors & Estate Agents

**30 STARFORTH PARK, BARNARD CASTLE**  
A superb 3 bedroomed house with a large garden, close to the village and school. Features include: double garage, central heating, wood burning stove, and a large front garden. **PRICE OFFER 400,000 - 410,000**

**27 MARKET PLACE, BARNARD CASTLE**  
A well presented 2 bedroomed house, close to the village and school. Features include: double garage, central heating, wood burning stove, and a large front garden. **PRICE 450,000**

**14 GARDEN, SHIPLEY TERRACE, COXSFIELD**  
A superb 3 bedroomed house with a large garden, close to the village and school. Features include: double garage, central heating, wood burning stove, and a large front garden. **PRICE OFFER 400,000 - 410,000**

**10 GARDEN, SHIPLEY TERRACE, COXSFIELD**  
A superb 3 bedroomed house with a large garden, close to the village and school. Features include: double garage, central heating, wood burning stove, and a large front garden. **PRICE 410,000**

7 Market Place, Barnard Castle, DL12 8NF. Tel: 01833 696 757 Fax: 01833 696 853  
27a Market Place, Richmond, DL9 4QG. Tel: 01748 822 525 Fax: 01748 825 656  
18 Duke Street, Darlington, DL3 7AA. Tel: 01325 368 568 Fax: 01325 350 140  
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ALL MAJOR CREDIT CARDS ACCEPTED

Coconut shy on how green



# Romaldkirk Fair



faken outside Village Hall

Donkeys on how green

2004

### Teesdale plans

A list of planning applications received by Teesdale Council in the week ending August 13.

**Headline:** Hall Hotel, Hasleholme, Darlington, LA 15, for demolition of four floors and erection of additional floors.

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**30 Chestnut Court, Tyn Hill, Darlington, LA 15, for conversion of existing premises into two flats.**

**100, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000.**

## 100 years of parish fun



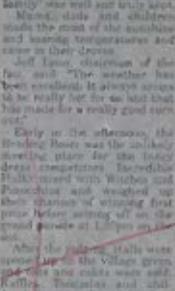
Four-year-old Collin Tyler and five-year-old Megan Johnson as Grand National winners



Happy, Area Robinson, 10



100-year-old Andrew Addison as the Hulk and Barbara Kidd as a pirate



Story and pictures: James Johnston

THE 100th anniversary of the Teesdale Parish Fun was celebrated in the week ending August 17. The event, which has been held for over 100 years, was a great success and was enjoyed by all.

The parade, which was held in the morning, was a great success and was enjoyed by all. The children and adults who participated in the parade were dressed in a variety of costumes, including those of the Hulk and a pirate.

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MADELINE Thompson, 98, Barnard Castle, died recently, leaving a son of the bar



EVENT organiser Malcolm Goodman with a Chinese Dragon kite

NEARLY 1000 people visited the High Face Kite Festival on Saturday.

The event, which was held in the afternoon, was a great success and was enjoyed by all. The children and adults who participated in the festival were dressed in a variety of costumes, including those of the Hulk and a pirate.

NEARLY 1000 people visited the High Face Kite Festival on Saturday.

The event, which was held in the afternoon, was a great success and was enjoyed by all. The children and adults who participated in the festival were dressed in a variety of costumes, including those of the Hulk and a pirate.



THE 20 metre panda kite

### A MEETING in the

to take place in Barnard Castle, Darlington, on Wednesday between representatives from Darlington Council, Teesdale Council and local residents campaigning against a new transport route.

The meeting was called after a meeting held outside the council offices during a meeting of the administration and executive committee on Wednesday. They had earlier agreed a joint motion through the offices of Barnard Castle.

## Protesters due to meet councillors



ABOVE: John Paul Grewson chaired the officers of Teesdale House. BELOW: Protesters march through Barnard Castle

The meeting was called after a meeting held outside the council offices during a meeting of the administration and executive committee on Wednesday. They had earlier agreed a joint motion through the offices of Barnard Castle.

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## Sports Mercury EXTRA

A NUMBER of sports reports were left out last week due to lack of space. We are pleased to include them this week. The rest of the sports news is on Page 13.

### Cricket

IT WAS ANOTHER hot day at Barnard Castle when Mike Staines won the toss and elected to bat.

Hepp and Clark opened and both played very well, with Hepp scoring 40 and Clark 30. The match was a good one and was enjoyed by all.

### Soccer

SHEDDEN THREE FIVE I THIRTY Dug & Grewson at their new ground, away to Barnard Castle, on the Wear Valley Sunday League 13/08/03.

After kicking off the very promising Barnard Castle team took a good first touch and scored a goal in the 10th minute.

### Cricket

LANDS Ends were away to Darlington on Wednesday. The match was a good one and was enjoyed by all.

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### Walk challenge

THE Barnard Castle Teesdale Area who completed the Three Peaks in 2002 are planning a new challenge for 2004.

The event, which has been held for over 100 years, was a great success and was enjoyed by all. The children and adults who participated in the event were dressed in a variety of costumes, including those of the Hulk and a pirate.

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Taken outside Bullace Hall



# Winston show produces bumper crop of fun



WINSTON parish produce show went ahead on Saturday and was a success of fantastic quality was once again on display.

The display was organised by the Winston Farm, Agriculture Club, with all proceeds going to the annual church party fund.

Vera Featherstone, the chairman of the Farm Show Club, said: "I think the show's gone pretty well. We've a bit down on last year, but here again I think most shows are experiencing the same thing. However, the quality was excellent again."

**PICTURED LEFT** are this year's trophy winners: Front Row - Catherine Mason, Charlotte Dickinson, Thomas Hutchinson, Rebecca Dickinson, Emma Hutchinson, Black Row - Sally Anne Hutchinson, Vera Featherstone, Janet Taylor, Harold Hodgson, Margaret Southard, Karen Hall and Molly Orton.

**CHILDREN:** A painted butter fly, 1 Katie Beach, 2 Jack Hutchinson, A painted plate, 1 Charlotte Dickinson, 2 Hayley Hall, 3 Catherine Mason, A decorated wooden spoon, 1 Emma Hutchinson, 2 Thomas Hutchinson, 3 Rebecca Dickinson.

**VEGETABLES:** A cabbage, 1, 2 Eric Willis, 2 Harold Hodgson, A cucumber, 1, 2 Eric Willis, A marrow, 1, 2, 3 Eric Willis, A lettuce, 1 Harold Hodgson, Three potatoes, 1 Brian Clarke, 2 Eric Willis, 3 Brian Clarke, 2 Isabel Appleton, Three tomatoes, 1, 2 Brian Clarke, 3 Eric Willis, Four carrots, 1, 2, 3 Eric Willis, Five marrow bones, 1, 2 Brian Clarke, 3 Harold Hodgson, Cauliflower, Harold Hodgson.

**FLOWERS:** Three pansies, Christine Mason, 1, 3 Eric Willis, Three geraniums, Christine Mason, 1, 2 Isabel Appleton, 3 Eric Willis, 4 Harold Hodgson, Three pansies, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson, Three pansies, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson, Three pansies, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson.

**PRESENTATION FLOWERS:** A prize-winning rose, Sarah Hall, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson, A prize-winning rose, Sarah Hall, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson.

**FLORAL ARRANGING:** An arrangement in a glass vase, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson.

**YEAST COOKERY:** A small wholemeal loaf, Margaret Coulthard, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson.

**CAKES:** A lemon sponge, 1 Harold Hodgson, 2 Val Raper, 3 Vera Featherstone, A walnut fudge with hot receipt, 1 Vera Featherstone, 2 Isabel Appleton, 3 Val Raper, A fruit loaf, 1 Vera Featherstone, 2 Molly Orton, 3 Jeanette Flinn, A gateau, 1 Jeanette Flinn, 2 Vera Featherstone, Six butterfly buns, 1 Vera Featherstone, 2 Jeanette Flinn, 3 Isabel Appleton, 4 Vera Featherstone, 5 Harold Hodgson, 6 Molly Orton, 7 Val Raper, 8 Harold Hodgson, 9 Molly Orton, 10 Jeanette Flinn, 11 Vera Featherstone, 12 Molly Orton.

**SCONES:** A stand of Victoria scones, 1 Vera Featherstone, 2 Jeanette Flinn, 3 Val Raper, 4 Harold Hodgson, 5 Molly Orton, 6 Vera Featherstone, 7 Harold Hodgson, 8 Molly Orton, 9 Jeanette Flinn, 10 Vera Featherstone, 11 Harold Hodgson, 12 Molly Orton.

**APPLE PIE:** Jeanette Flinn, A savoury pie, 1 Diane Dickinson, 2 Val Raper, 3 Jeanette Flinn, 4 Isabel Appleton, 5 Vera Featherstone, 6 Biscuits & Traybakes, A stand of shortbread, 1 Vera Featherstone, 2 Jeanette Flinn, 3 Val Raper, 4 Harold Hodgson, 5 Molly Orton, 6 Vera Featherstone, 7 Harold Hodgson, 8 Molly Orton, 9 Jeanette Flinn, 10 Vera Featherstone, 11 Harold Hodgson, 12 Molly Orton.

**JAMS & PRESERVES:** A jar of jam, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson, A jar of strawberry jam, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson, A jar of jam, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson.

**KNITTED GARMENTS:** A pair of mittens, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson, A pair of mittens, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson.

**TOYS:** A teddy bear, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson, A teddy bear, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson.

**OTHER:** A vase of flowers, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson, A vase of flowers, 1, 2 Margaret Coulthard, 3 Eric Willis, 4 Isabel Appleton, 5 Harold Hodgson.

# Weather holds fair too



ABOVE: The three blind mice and the farmer's wife, Mrs Atkinson, Jessie, Zina and Nigel Bell.

THE weather managed to hold up and people were entertained by a wide range of stalls and music from the Middlesbrough Silver Band.

A Funck and July show also with a big attraction for many of the children (and adults).

Reverend of Barnardale and Cotharwater parishes, Rev Peter McLeod, said: "We really wanted to put something on this year to raise the money. I think it's been successful, it's been a really nice day."

**RESULTS:** The winners of the three blind mice and the farmer's wife were: Tanya Bell, 1, 2 Alison Cargrove, Miriam the Mice, 3 Bronnie Whittaker, 4 Ian Innes, 5 John Innes, 6 Katherine Weston, 7 Roger Gill and Katie Cooke, 8 Charlotte Bell.

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# Club news round-up

## BARNARD CASTLE HAMMERS

by Joan Maria

DEBATE: The fact that a lot of the membership of Barnard Castle Hammers stick to their territory programme and resist to change is not surprising. The leader group will be based on the group with a mix of men and women.

Leaving the programme area near to the Barnard Castle, they will set through Lion High Road and then to the old railway. This is a slow climb before getting to the top of the hill and into the wood.

Parting by Martin Curran, they crossed the River Wear then Old Durham Road. A 100m step was laid in the area which is now being used for a bank in Poles, near the river. There were good views of Durham Cathedral and the river.

Eventually the programme was stopped and a 100m step was laid in the area which is now being used for a bank in Poles, near the river. There were good views of Durham Cathedral and the river.

Heading back in the new step ladder for the old river of the last step for this area to have disappeared. Using the new step ladder for the old river of the last step for this area to have disappeared. Using the new step ladder for the old river of the last step for this area to have disappeared.

## BARNARD CASTLE TOWNSWOMEN'S GUILD

by Joie McCallife

WE did not hold our usual meeting but following the death of a member a meeting was held to discuss the future of the club.

At the meeting Mrs. Evelyn Stephenson demonstrated to go how easy it is to make some simple wintering soured soups. Seven club members were a day to take home.

The date of our next meeting is September 11 and is our monthly party night. New members always welcome.

**EVENWOOD WI**  
by Nina Blunnie

Our meeting was well attended with our president welcoming everyone. Mrs. Evelyn Stephenson demonstrated to go how easy it is to make some simple wintering soured soups. Seven club members were a day to take home.

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## Celebrate Christmas at the Red Well!

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KEMWALD LEBK FARR 2001 NOT AGENS USING GAS TALK COTTAGE APRIL 8 9 2003 SEE BACKED ROUND

Fireworks 1999

Disability forum gets underway

The first meeting of the Teesside Disability Forum has been held...

Kate Tomlinson said she had been invited to attend...

Dazzling display

More than 100 people gathered at the Teesside Fireworks display...

Parking concerns

Residents of Teesside Street in Barnard Castle have expressed their concerns...

Offenders may help to clear up untidy section of village

A plan to clean up the backside area of Barnard Castle...

Mr Mitchell might be asked to ask the people who live down there...

Mr Mitchell might be asked to ask the people who live down there...

Protests made over way parts of date will be robbed of any chance of getting Euro grants

Members of Teesside Council protesting at a meeting...

The council had to be persuaded to accept...

The council had to be persuaded to accept...

Date will have 20 displays in big business event

A date which has been chosen for a business event...

The date will be chosen for a business event...

The date will be chosen for a business event...

Harry and his team produce superb seats for millennium



Harry Dick and his team have produced superb seats...

Harry Dick and his team have produced superb seats...

Welcome given to plan for easier coach access at the museum

Plans to make it easier for coaches to access the museum...

Plans to make it easier for coaches to access the museum...

Plans to make it easier for coaches to access the museum...

Still time to join festive pageant

There is still time to join the festive pageant...

Dolls' house date

A dolls' house project is being held...

Cyclists to move in for title races

The Teesside Cycling Club is preparing for title races...

Good job done at reasonable price

A good job has been done at a reasonable price...

Memorial set

A memorial is being set up...

PUBLIC NOTICES

THE COUNTY COUNCIL OF DURHAM (VARIOUS ROADS) SANITARY AND LITTER MANAGEMENT ORDER 1999...

PUBLIC NOTICES

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KOMALU KIR PAR 1999 KAPPA SIGMA

# Sun shines once more as fair raises £3,000 for churches

The sun shined brightly on the grounds of the Teesdale Fair at the end of the month, weather that was perfect for the raising of the money that will be used to help the churches in the Teesdale area.

The fair, which was held on the grounds of the Teesdale Fair, was a success and raised a total of £3,000 for the churches in the Teesdale area.

The fair was held on the grounds of the Teesdale Fair, which was a success and raised a total of £3,000 for the churches in the Teesdale area.



Camilla Stewart, Terry, right, and redoubt queen Becky Darcy with pupils Daniel and Benjamin. Standing are the girls' mothers Pam Stewart and Alison Darcy.

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Spicing the fair are, from the left, Wilma Walton, Cathy Lewis, Deborah, Deborah Robinson, Patsy Robinson.

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Nicola Murray and Lisa Dalton were ready to cook something tasty for the fair.

The fair was held on the grounds of the Teesdale Fair, which was a success and raised a total of £3,000 for the churches in the Teesdale area.



Vera Donohoe, Vera, Madeline, Deborah and Lisa's Jerrard sold 100 of their wares at the Teesdale Fair.



David Herbert and Victoria Herbert were in the big sun as they sold at the fair.

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11 JAN 2017

I'm aware that there is an application on behalf of the Parish Council regarding the land in front of Rose Stile & Rose Stile Cottage and I would like to state the following.

Throughout my whole life (now 25) I have grown up in Romaldkirk I now own my own home and still visit most weekends staying with my fiancé's family or at The Gatehouse and also visiting a friend who lives in the village.

My mother and father own The Gatehouse in Romaldkirk, prior to this my grandfather owned Hall Cottage until it was sold in 1974.

I can remember playing with Evie and her brother and other children from this village ( Jack, Anna, Alice, Lewis and William) after school and on weekends. Sometimes Evie's cousins and their friends children would play on the greens too.

Mr Bowen-Jones shooed us off once, including Evie and Mully, when we were gathered on the front with our bikes.

I note Mrs Carter has said her son Ivan use to play on the grass in front of Rose Stile & Rosestile Cottage. I went to school with Ivan so I knew him. He was a quiet and reserved boy who did not mix well. He did not play with us on the village green nor did I ever see him in front of Rose Stile. When in the village I can only remember seeing Ivan when he was with his mother in the car. Even today you don't see Ivan about the village unless he is in his car or his mother's car.

From 2005 – 2007 I lived permanently in Romaldkirk at The Gatehouse while I was attending Barnard Castle School. In the evenings and weekends I played cricket and rugby on the low green with my neighbour- William Walton. I can recall seeing Evie and her brother playing on the grass outside of their place and on low green and they were in and out and I could see their parents gardening on the front.

As a family we attended the Fireworks which took place opposite our Cottage up until 2000 when the venue changed. I can remember the area being cordoned off with the majority of people standing in front of the Kirk Inn. I never saw Dorothy Goodall attend the Borers fireworks!

I enjoy the Beamish Rally and the old cars and right up to 2016 I have been in the village to watch the cars. My family would either sit outside The Gatehouse or stand on Middle Green, where the check point was or sometimes around on Low Green as the cars would come past here. Visitors would be doing the same.

I can recall Mr Bowen-Jones and the Webb's sitting outside with family and for the last 5/6 years I have sat with them on their front and watched the cars go by. I have not seen Dorothy Goodall on this area as she states. The checkpoint was up by the Village Hall area and this was where the majority of people gathered to see the cars.

The Fair took place on low green and middle green and not on any of the smaller patches of ground in front of people's houses included Rose Stile Cottage. All the kids games ,the coconut shy and tug of war took place on Low Green. Other activities took place on Middle Green near the Village Hall and in the Church. Awards were given outside Caroline Cottage / Kirk Inn (Middle Green).

Even as a young adult when playing on the green or if out walking the dogs I never saw anyone, other than the owners, using / cutting across the front of Rose Stile. There has always been plants

and trees along the edge which would mean you have to step on and then off and go around which would be silly and futile, anyway I always thought it belonged to the owners of Rose Stile and Rose Stile Cottage.

I hope this will help you in your assessment of the application.

Christopher Bark



11 JAN 2007

Reference your notice and the application from Mrs Lesley Cutting we would like to respond as follows. We have never seen anyone using this piece of land in the way described by these 2 Councillors and our observations as to the use of their front is as follows.

My family have lived in Romaldkirk since approximately 1965. My father resided at Hall Cottage from 1965 to 1974, when he then moved to the Gatehouse, Romaldkirk, which remains in our family to this day. We were married in 1973 at Hall Cottage. The green outside was looked after by my father up until Hall Cottage was sold.

Hall Cottage is next door to Rose Stile Cottage, with good views over the area in question and Low Green and the green in front of Caroline Cottage and Kirk PH.

As dog owners we walk our dogs up Sennings Lane and around the village at least twice a day. Our children and grandchildren have played (and continue to play) on the green and cycle around the roads.

The Fireworks was very much centred around the Kirk Inn as it was organised by the Publican. People stood in the area at the front of the pub overlooking Low Green. We never saw anyone standing over by Hall Cottage and Rose Stile, with the exception of the owners.

Specifically around the major activities i.e. the Fair and the Rally, these centre around the Village Hall (tea, coffee and food on hand) near the stocks and the two public houses. We can see this activity from our cottage, but we wander out and about in the village with the children, to get a closer look at the cars and to be involved in the Fair etc.

We have seen over the years the two families residing at Rose Stile using and maintaining their front in all the years the owners have lived there. Mr and Mrs Webb and Mr and Mrs Bowen-Jones were often seen by ourselves maintaining their frontage. For a long period of time (a number of years) there was a lot of building materials placed on the front, which was a little unsightly.

We never saw any other person use this piece of land, in fact we understood it to belong to the owners of Rose Stile.

We have never seen this piece of land being cut by the people appointed to mow the village greens.

There has been no village activity on this piece of land nor was there on the land in front of Hall Cottage. It seems a little spurious they are trying to claim this particular piece of land as village green when they do not even use any of the other smaller pieces of "village green".

Notwithstanding the fact that the whole village is aware of the ongoing legal battle between Gill Carter and the Webb's. It smacks of a little retribution especially when their adjoining neighbours have recently deceased and are unable to corroborate their use.

From 2005 to 2007 I lived permanently at the Gatehouse with my son while he attended Barnard Castle School. My son played rugby and cricket with my neighbours son on Low Green after school during the week and on the weekends. He also walked our dogs.

Walkers and dog walkers use the roads, the main greens and the footpaths around the village. We don't see anybody, other than the owners, using the grass in front of their houses around the village.

Signing on behalf of Ian B Bark and Rosalind S. Bark

19 JAN 2017

I have lived in Romaldkirk since I was 4 years old, when our family moved in to the village in March 1997.

As a child growing up I and my cousins (when they visited which was often) we would end up playing on the village greens, more often than not Low Green as this was near to our house and my / our parents could see us. We would leave our bikes and skateboards outside on the front grass as did our friends.

I left the village in 2013, and prior to leaving I have never seen our front being used for village activities. I have certainly not seen Ivan Carter play on our front but I have seen him on Low Green with his then personal trainer. In fact he was a quiet boy and didn't even play with us. He is just a few years older than me.

Again I have never seen Mrs Carter use our front as she has alleged. I have only ever seen her in her car going back and forth. Lesley Cutting and Gill Carter have been continually harassing my parents for some years over access on Sennings Lane and I consider this application to be fraudulent / corrupt and an extension of their unreasonable behaviour.

I am of the view that Gill Carter is using her civil action with my parents, together with and supported by Lesley Cutting, to undertake Parish Council business, that is this application to register this area of land.

I think it underhand that Lesley Cutting together with Gill Carter and Dorothy Goodall have colluded to pursue this claim after our neighbours and friends, the Emeritus Prof. Bowen-Jones and Mrs Val Henderson, have died (November 2015 & December 2015). Both of whom without any doubt in my mind, would have joined with my parents in refuting these lies. Both were very old and had long established links with this village, in excess 40 years. Prof. Bowen-Jones was also chair of the Parish Council.

I can remember the fireworks / bonfire which took place on Low Green in the vicinity of the pump. My memory is that everyone gathered around the front of the pub (The Kirk Inn)/ Caroline Cottage, where the tables and chairs are to view the display. We would be running in and out of the pub getting drinks and food and playing with sparklers. Dorothy Goodall did not stand on our front – nobody did – only our family and friends. My cousins and I would be running in and out of the house and I never saw anyone other than us using our front. When the fireworks stopped being on the green (in 2000) a family in the village (Borers) took on this activity and we would all go over to their place (White Gates).

**The Village Fair:** In 1998 I won a Teddy Bear which was presented to me by the local Vicar which took place on the green in front of Caroline Cottage / The Kirk PH. One year my brother and I won the best decorated wheelie bin. This was taken up to the Reading Rooms where the judging took place (we won). In 2005 my brother dressed up as Frodo and all of the judging took place at the Reading Rooms. They then paraded down the highway to Low Green. Again there was no activity on our front - there never ever was.

As children we were thoroughly involved in the Fair. Also my parents had involvement in the Fair, including putting up bunting, setting out and manning a game and my mother ran the elephant stall for a number of years until 2012. Each year we always had friends and family staying with us so they

could join in the fun of the Fair – it was quite an event. At no time did I see anyone use or attempt to use our front. Only the main greens were / are used for the Fair. Even the village green in front of Hall Cottage was never used for the Fair.

From about 2005 my father started building work on our property and for a number of years the front had been used to store a range of building supplies from dumpy bags of sand and ballast, pallets of stone blocks and roofing slates, plasterboard, and timber. No one walked over our front. They would have to navigate all of these materials which were constantly changing.

I always understood the front was ours and Mr Bowen-Jones and witnessed both Mr Bowen-Jones' gardener and my father mowing the lawn since 1997. My mother also maintained the front meticulously.

The Beamish Rally takes place annually and my family, cousins and grandparents would come over to see the cars. This was another event which was popular with our family and friends. We would put seating out on the front together with Mr Bowen-Jones until his health declined. I cannot recall Mrs Goodall sitting on this as she states although I do recall seeing her walking around the village. The checkpoint for the Rally is outside the Reading Rooms and people gather on the middle green to see the cars. In addition a local friend would bring his traction engine down to the village parking it outside the Rose and Crown PH. Our front is not used for the Rally or by the people visiting. I have seen people using the village green outside Caroline Cottage / Kirk Inn and on Low Green which included sitting on it and parking cars on it. But I think because they will have observed us coming in /out of the garden with cups of tea and food and likely assumed the front was private. The picture, submitted by Mrs Carter, is of me and my family.

Visitors to the Romaldkirk who wander down past our house do so using the highway, they do not use our front. This would have been made more difficult due to the trees and shrubs aligning Sennings Lane.

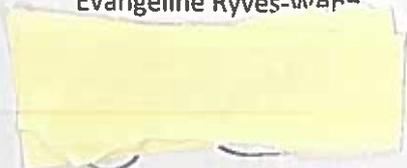
When I walk around the village and even as a child I never used any other area of grass to walk on, even the grass in front of Hall Cottage was never used as a playing area.

On recent visits to see my parents I've seen Lesley Cutting using the front which has now been cleared of plants by Gill Carter and yet Lesley Cutting has never done so prior to this.

Lesley Cutting is underhand, she has uprooted and poisoned plants all along the side of my parents' home with diesel and weed killer. I was instrumental in meeting with the Environment Agency who came and discussed this with me. This took place in 2012 about 12 months before Gill Carter went to Court (High Court, Newcastle) over access issues, where Lesley Cutting was a witness for Gill Carter.

I want to make clear that Lesley Cutting and Gill Carter, are being vindictive against my parents. Despite being to court, they continue to come and photograph my parents' home on a regular basis which I consider to be totally unreasonable behaviour.

Evangeline Ryves-Webb



**Jill Errington**

---

**From:** rory henderson  
**Sent:** 07 January 2017 16:34  
**To:** Jill Errington  
**Subject:** Application for the registration of Land as Town or a Village Green in Romaldkirk

Dear Jill,

I'm writing with reference to the Application for the registration of Land as Town or a Village Green in Romaldkirk. I understand that the application number is NL43.

To provide some background information to my statement, I am the joint owner (in conjunction with my sister) of the cottage located directly opposite this land (Dene Lodge).

The cottage passed into our joint ownership in the summer of 2016 following the death of our mother in December 2015. The cottage has been in our family since the 1940's. As a family we used the cottage for holidays up to 2000 when my mother became a permanent resident there. My sister had previously been a permanent resident there during the 1990's. I lived there myself from 2002 to 2004.

As I recall, the area of land in question has never been used for the village Fair, the village fireworks or for the Beamish rally. I have never seen any Council workers maintaining the land. This has always been undertaken by good willed local residents.

The greens are used infrequently by the occasional tourist walking across them and the occasional local resident walking their dog.

Please feel free to contact me if you need any further information.

Regards,

Rory Henderson FRICS, BSc, MSc

Response to objections against the registration of the parcel of land to the west of Sennings lane Romaldkirk.

The decision to apply to register this parcel of land which historically had always been known and used as part of the village green was agreed by all Parish Council members when it was disclosed that this land had been mistakenly omitted from the 1967 registration plan.

I have both lived and operated my property business from my home in Romaldkirk since 1998, initially moving to the village in 1985. The access to my home and workplace passes the land in question and in addition to this, a parcel of my land is accessed by the western entrance to Sennings Lane, situated directly adjacent to this parcel of land. As a result of living and working in the village, using the Greens for recreation such as walking of dogs, using the Post Office at the Kirk Inn until its closure and thereafter walking to the top of the village to the Post Box and generally being active in village life, I have had ample opportunity to observe what has taken place on the land on a daily basis, including both my own use and that by others. The uses to which I have seen the land put on a regular basis include dog walking, and ramblers accessing Sennings lane on a daily basis. Other activities have been covered in my previous evidence.

I understand that Mr & Mrs Webb have objected on the basis that they have never seen anybody use the land in question apart from themselves and their family. I can accept that this may be the case but would point out that the area in question is obscured from their view by a substantial wall (8 feet at an estimate) which would make the monitoring of the area virtually impossible. I would also consider that Mr Webb is in full time employment which sees him leave the village at around 7.30 Am, not returning until after 5 Pm, thus leaving a large period of time in which he could not monitor the use of the land. I would also note that Mr & Mrs Webb have provided a significant amount of evidence of their recreational use of the land, given that they do not own the land in question I

would suggest this constitutes clear and cogent evidence that parishioners have used there area for recreation.

I feel that the objections have taken an unfortunately personal note. While this is regrettable I would point out that the registration of this area protects the land abutting Mr & Mrs Webbs property, so that they too may continue to enjoy recreational use of that area. As a result of the personal nature of the objections I would hold that their content has little bearing on the true facts as supplied by the Parish Chairwoman Lesley Cutting & sworn under oath in addition to any other supporting statements by other villagers.

As a footnote, I observe that the other objectors supporting Mr & Mrs Webb's statements have not lived in the village on a permanent basis and as such may struggle to offer useful evidence of the areas use.

Gillian Carter

The Hall

Romaldkirk

The area in question was identified as part of Romaldkirk Village Green under the Law of property Act 1925 on the 30<sup>th</sup> of September 1930 by the then Lord of the Manor, Claud Snaishall.

The reason for doing this historically Romaldkirk had two fairs a year but these were horse fairs not as our present day one, things started to get out of hand with the visitors and it was decided to stop them, registering as Village Green was a means to do this.

Pictures of fairs attached and reference from the Short History of Romaldkirk.

Canon Lee registered the Village Green again in 1969 but the boundaries were miss drawn on the handmade map coursing confusion, this hadn't been picked up on until recently, but it has always been an open space freely available for residents to use as green.

We bought our property in Romaldkirk in 1976, by 78 our son had made friends with the other boys of the village of a similar age, at least a dozen at the time, some lived at Hollin Crescent and would come down the track, Sennings lane and meet up with the others at the bottom, one game was for them to race down through the mud and finish up on the green, at the time there was a bench on the corner near the Footpath signpost on the area in question.

I can remember Willam Icton sitting on the bench chatting to people and sometimes just sharpening his scythe.

After the passing of Canon Lee the management of the village green was given to the Parish Council, they bought 2 lawn mowers available for residents to use to cut the greens outside their property the large areas were taken by a local farmer for hay, this went on for a number of years until the Reverend Roy Boff , as Lord of the Manor took over the responsibilities of the Village Greens.

Reverend Boff created a committee to help him manage the greens, myself and my partner were part of this committee and held a fundraiser at our house to get funds for grass cutting contractors etc, this stayed in place until Reverend Derek Dalton handed the Village Greens back to the Parish Council in 1997.

I joined the Parish Council then so I could still be involved in the care of the greens.

I was a member of the Parish Fair committee from the 80's, I mainly organized the Fancy Dress Parade and putting up the Bunting, I made new bunting to go around the village, with Health and Safety issues the fair was focused to the Lower Green, the bunting hung around the trees and tied off at the Footpath sign on the green outside Rose Stile but this disappeared mysteriously 2010?? But can be clearly seen on Google street view 2009.

The Fancy Dress parade meat outside the Reading Rooms to be judged then walk along Sennings Lane to the Lower Green, it is quite common to see people stood on the area of green in question applauding, taking photos, this area lends itself most suitable as it is wider and slightly elevated- a perfect open space to spectate more so then earlier parts which are very narrow or there are cars parked.

I am concerned that since the application was made public there have been wheelie bins, garden waste bags and cars parked on the Green area plus several conifer trees planted which in time will obstruct access to the track, highway and green area, I feel the area would be best cared for as part of the Village Greens and under the protection, management, Public Liability cover etc the Parish Council has in place.

With regards to the slanderous accusations made in Mr and Mrs Webbs statement I am aware they have CCTV cameras up and down the Public Foot path surely that would show me poisoning plants? Which I most certainly didn't.

I hadn't been aware how extensive their surveillance was at the front and I'm not sure if that meets the guidelines set on the GOV.UK website but that isn't relevant to this matter.

I would say it was impossible, even with the CCTV, to say nobody had made use of this area, their boundary wall is at least 6 foot then with the shrubs growing up and over at least 7 foot, I'm 5' 3" children less? I've chatted to people at Rose Stile's gate, many of the team have been on it when setting up the Fair, there has been signs there for the Open gardens and other events.

With regards to the Bonfire Night, it became a victim of it's own success, so many people coming from surrounding area for the free event, the village was mobbed with people and cars, the bonfire and fireworks were on Low Green the top, west, end was cordoned off for H&S sake, an awful lot of spectators were in the area it was inevitably people stood in front of Hall cottage, Rose Stile round to the Kirk it would be impossible to say who was or wasn't stood where people were milling about all over.

Lesley Olivia Jane Cutting

Romaldkirk Parish Council Chair.

James Bayles were rogues and thieves. In 1714 John Bainbridge appeared before the court to confess that he "did misbehave in meddling with and talking to a witness while he did give his evidence in a case there and that upon being reproved by the Steward gave ill language contrary to the behaviour that became (him) in that place." Numerous bye-laws clarified the regulations of the agricultural community: fining "any person for the future stopping and retracing watercourses" 2s. 6d.; "any person neglecting to cut ditch and scour their hedges against the high roads" 10s. 6d.; "any person that suffers his swine or pig to go into the Townstreet of Romalldkirk on Sundays" 6s. 8d.; "persons that keep scabbed horses upon the Town Moor" 10s. 6d.

Romalldkirk School was destroyed by fire in 1875 and a new school with two cottages for the master and mistress erected later. Outstanding scholars could go to Bowes School where there was a Scholarship to Cambridge. There were also private schools in the village. About 1815 Mr. Wright had a private school in Black Moor Lane, where pupils were entered as young as seven years old. There was also Mr. Simpson's school at Wodencroft which must have given a sound education. The great anti-Corn Law and Radical, Richard Cobden, is supposed to have spent some time there. Of three Helmer brothers who were educated there about 1819, two became doctors and were among the earliest medical students at University College, London, while the third became a solicitor. In 1819 the fees for a nine-year-old child (Thomas Helmer) were £4 4s. 0d. per half-year, with 17s. for books, quills and ink, and 3s. for cyphering and spelling books.

The Village Green played an important part in the life of the village in those days. References are made to a Maypole being set up at 9.00 a.m. on September 7th, 1770, and again in 1793. Toby Tree (a large tree on the village green), named after Tobias Bayles who died about 1652, was used for pinning up important notices. A great attraction in the 19th century was the Village Fair held for one day twice a year in April and October. The caravans came from Brough Hill fair and pitched on the Low and Middle Greens. Opposite the "Rose and Crown" there were stalls with all kinds of goods for sale, including a popular toffee called "cure all." Horses on leading reins ran up and down the road to show off their points. Hurdles were put up on the Middle Green and from Toby Tree to Rose Stile for sheep pens. It was necessary for some of the houses to fasten their gates with rope to prevent the animals getting into the gardens especially on Top Green where the cows used to put their heads over the garden gates. In the 20th century the occasion seems to have been jeopardized by the gypsies and the fair was stopped in 1930.

The poor of the parish were catered for in the Almshouses or Hospital established by the will of William Hutchinson, Esq., dated September 30th, 1693. This made provision for six poor people to have accommodation provided that they came from villages within the Parish; were of the Protestant religion; attended Church on Sundays;

My name is Trevor Addison, I am a retired auctioneer and farmer, having lived most of my life in Romaldkirk, farming land to the north and south of the village.

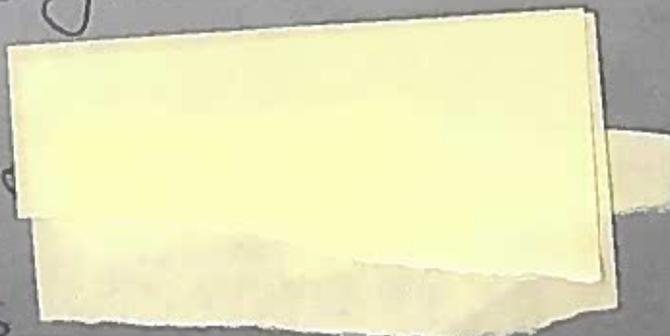
Since retiring I catch buses for the Parish Council on all greens within the village -

Romaldkirk is a busy village with being on the Teesdale way, many walkers stopping to rest or a picnic on the greens.

Several big attractions are held in the village each year which attract a considerable amount of people utilizing all the village greens to full.

Over the last twenty years I have seen people from the village and walkers using the land (land to west of Sennings house) for recreational use.

To the best of my knowledge this parcel of land is always been part of the village greens and used accordingly.



THE OAKS  
ROMALDKIRK  
BARBAR CASTLE  
CO. DURHAM DN2 9EH

18/2/2017

Lieutenant Colonel D M F Singer  
Beckwath  
Low Green  
Romaldkirk  
Barnard Castle

Clerk of the Parish  
Romaldkirk Parish Council  
Romaldkirk  
Barnard Castle

17 February 2017

Dear Madam,

**GRASSED AREA WEST OF SENNING'S LANE ENTRANCE: RECOGNITION AS VILLAGE GREEN**

I am writing in support of the recent application to establish the above mentioned area as recognised "Village Green". Given its location out with the boundaries of adjacent properties as well as its obvious identification both historically and through current usage as part of the Village Green known as "Low Green", I would have expected such recognition to be beyond doubt.

I personally have walked my dog over this area since my arrival in the village 18 months ago - as have others - without let or hindrance as, both by its appearance and its continuity with the area of Village Green to the east of the Senning's Lane entrance, its identification as Village Green patently logical. Furthermore, the formal recognition of this grassed area, as Village Green, would seem to me to ensure the protection and common utility of this area without in any way adversely affecting those living in adjacent properties.

Yours faithfully,

*{signed on original}*

Lt Col D M F Singer  
MB, ChB, MSc, FRCS, MRCGP, Dip CS, RAMC

Sunnybank  
Romaldkirk  
Barnard Castle  
DL12 9DZ

To whom it may concern

We wish to give support to the Parish Council in their application to register the area of green in front of Rose Stile as village green as I have assumed it was all my life.

My family are from Romaldkirk and as a girl I would spend time with my maternal Grandmother who lived in April Cottage, south side of Low Green, the village with it's large area of greens it was a lovely place to play safely.

When my mother's health deteriorated, she wanted to come back to the village, they bought Sunnybank Farm, my own daughter Racheal would come and stay with them again enjoying the village like I did and playing with the other children, which at that time were quite a lot compared to now and mainly boys, there was always someone about winter or summer. The popular place was on the lower greens away from the traffic, they were all over the place playing tag, piggy back fights, hide and seek especially on a Friday evening there could be 12 to 15 young teenagers just larking about enjoying themselves, some came down Sennings Lane from Hollin Crescent and they would meet up at the bottom to make plans, I always knew they were safe there.

After my father passed away I inherited their house and have now lived here some 30 years I regularly drive around the village with my husband and we are concerned with the mess that has appeared on what we have always regarded as village green and used by myself, my daughter and her friends and other the villagers a such, that's why we are happy to support the Parish Council in this.

Yours sincerely

Mr and Mrs F Marshall

The Rectory  
Water Gap  
Romaldkirk  
Barnard Castle  
DL12 9EE

19 February 2017

Dear Sir,

**Romaldkirk Parish Council application to formally register land in front of Rose Stile Cottage as village green**

With regard to the above application I would like to add my support to the above application. As a resident since 2012 I have always assumed the open green areas within the village to be village green owing to the use by all residents of these areas. As a result, it seems sensible for it to be formally registered by the Parish Council (PC) to ensure continuity of its use by residents and visitors alike.

The land is maintained by the PC and used by villagers during annual events, including the traditional fete that is held each year in August. The main stalls are set up on the lower green so this additional land area for participants and observers alike is always walked upon. Additionally, I have myself, and observed others, crossed it directly as it is directly adjacent to Sennings Lane public footpath and bridleway which is highly popular with walkers and dog walkers alike.

The PC has always ensured the lands in the village are properly maintained and I am therefore content this piece of land when registered will remain in good hands.

Kind Regards

Joanne Nixon

**Jill Errington**

---

**From:** [redacted]  
**Sent:** 19 [redacted], 2017 / 21:36  
**To:** Jill Errington  
**Subject:** Fwd: Village Greens - Romaldkirk

Sent from my iPhone

Begin forwarded message:

**From:** Charles Goodall <[redacted]@[redacted].uk>  
**Date:** 10 [redacted]  
**To:** [redacted]  
**Subject:** [redacted]

**To whom it may concern**

I write to confirm that I lived in the village of Romaldkirk between 1982 to 1986.

During my residency, I had a business cutting lawns in the village. At the time, a number of the properties in the village were used as holiday homes and I used to maintain the lawns outside the holiday periods.

One of my clients were the Mason family who lived at Rose Style Cottage but lived abroad, returning during the holiday periods. I was employed to cut the garden to the rear of the property, the front garden (which enclosed by a stone wall) and the open land between the road and the wall, which was regarded as part of the Village Green.

At the time, the open land had a wooden bench next to the Mason's boundary wall and a public footpath sign near the road pointing to Sennings Lane). My role for the open land was to remove rubbish often left by walkers near the bench, remove dog muck, cut the grass and trim the grass around the base of the sign. In those days there was no Village green management and owners of properties assumed responsibility for maintaining areas of land in front of the property and also there was no responsibility of dog walkers to tidy after their dogs. This particular area of green was used as a short cut towards Sennings lane from the middle of the village so was in frequent use and required regular tidying.

The public access was acknowledged by the Masons and it was for this reason, my role extended for this piece of land extended beyond grass cutting.

Given the land has remained open in nature and there has been unrestricted public access for over 30 years (and I believe many years before hand) , I don't believe there is any doubt that it forms part of Romaldkirk Village Greens.

I understand management of Village greens has been passed to the Parish Council who are looking to record all the areas which form part of the Village Green for maintenance and insurance purposes. I hope that my past involvement helps to provide some clarity on the correct boundaries of Village Green.

Regards

Charles Goodall

Charles Goodall MRICS  
Director



**Jill Errington**

---

**From:** Gillcarter3  
**Sent:** 19 February 2017 21:35  
**To:** Jill Errington  
**Subject:** Fwd: Land Registration - West of Sennings Lane

Sent from my iPhone

Begin forwarded message:

**From:** sarah wall <[redacted]>  
**Date:** 19 February  
**To:** Gillian Carter 3  
**Subject:** Land Registration - West of Sennings Lane

To whom it may concern,

I lived all my childhood in Romaldkirk on the family farm at the bottom of the village (Low Green Farm) and returned as an adult in 2010 to raise my own children here. One of the most wonderful things about the village is the amount of open and communal space.

I am therefore in full support of the parish registering the land to the west of Sennings lane. I have walked my dog and children down that lane for many years and often walk over and play on that area. I believe it should be registered as parish land so villagers can enjoy it for years to come.

Kind Regards  
Sarah Wall

**Jill Errington**

---

**From:** Gillcarter:  
**Sent:** 19 February 2011  
**To:** Jill Errington  
**Subject:** Fwd: Romaldkirk Village Greens

Sent from my iPhone

Begin forwarded message:

**From:** Wally Walton  
**Date:**  
**To:** "  
**Subj**

**FAO Durham County Council**

I have lived in the village of Romaldkirk for over 20 years now. I have a small cottage right in the middle of the village surrounded by the village green. As our house backs onto the Church, we..... in fact have no garden or outside space, so we consider the village green our garden. When we first moved here our children were small, so they spent many an hour playing on the greens around the village. I now have a dog and walk most days down Sennings Lane... the green to the west of the lane, in front of Rose Stile and Rose Stile Cottage I certainly would assume were part of the village green.

Yours sincerely

Mrs Alison Walton

The Shieling

Romaldkirk

Barnard Castle

**Jill Errington**

---

**From:** Gillcarter  
**Sent:** 19 February 2017 21:35  
**To:** Jill Errington  
**Subject:** Fwd: Romaldkirk Village Greens

Sent from my iPhone

Begin forwarded message:

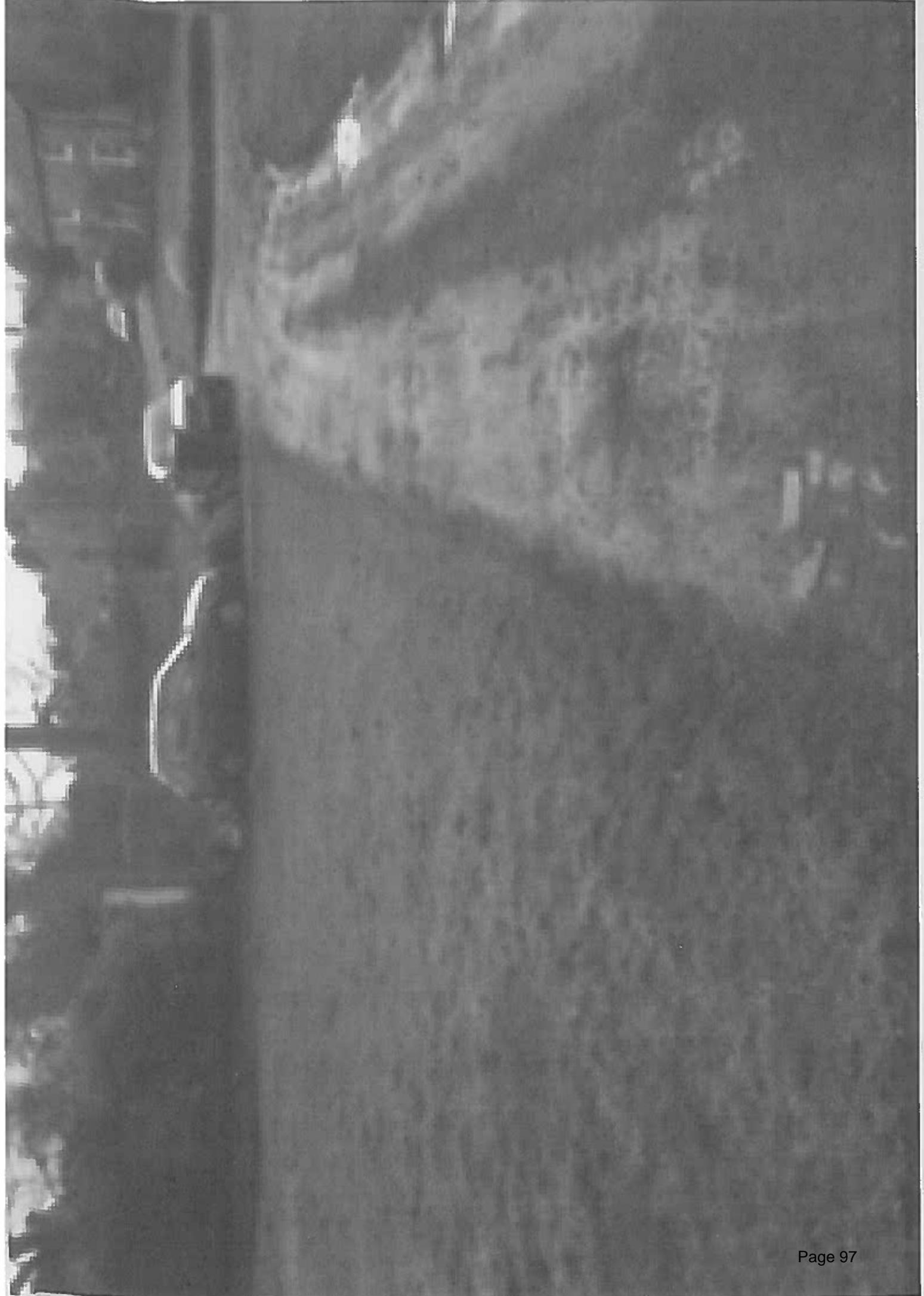
**From:** " [redacted] <[redacted]@[redacted].co.uk>  
**Date:** 19 February 2017 at 21:02:26 GMT  
**To:** [redacted] <[redacted]@[redacted].com>  
**Subject:** Romaldkirk Village Greens

FAO Durham County Council

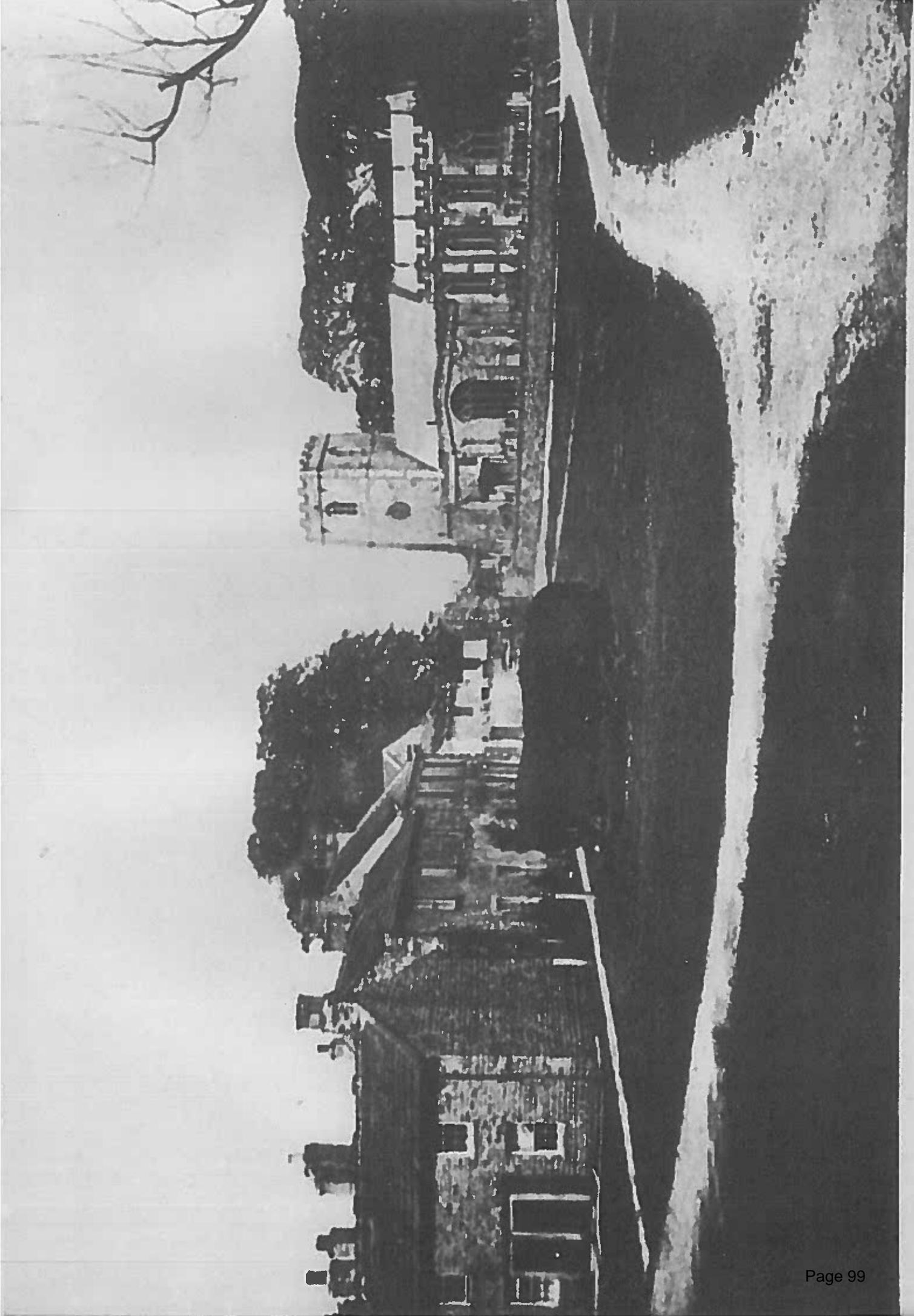
My wife and I have lived in Romaldkirk for over 30 years. Although we have a lovely garden we regularly stroll around the village greens. I have always kept active doing a lot of walking and walk my daughters dog every day. I regularly walk down Sennings Lane and walk over the green area to the west of the lane which I have always considered to be part of the village greens.

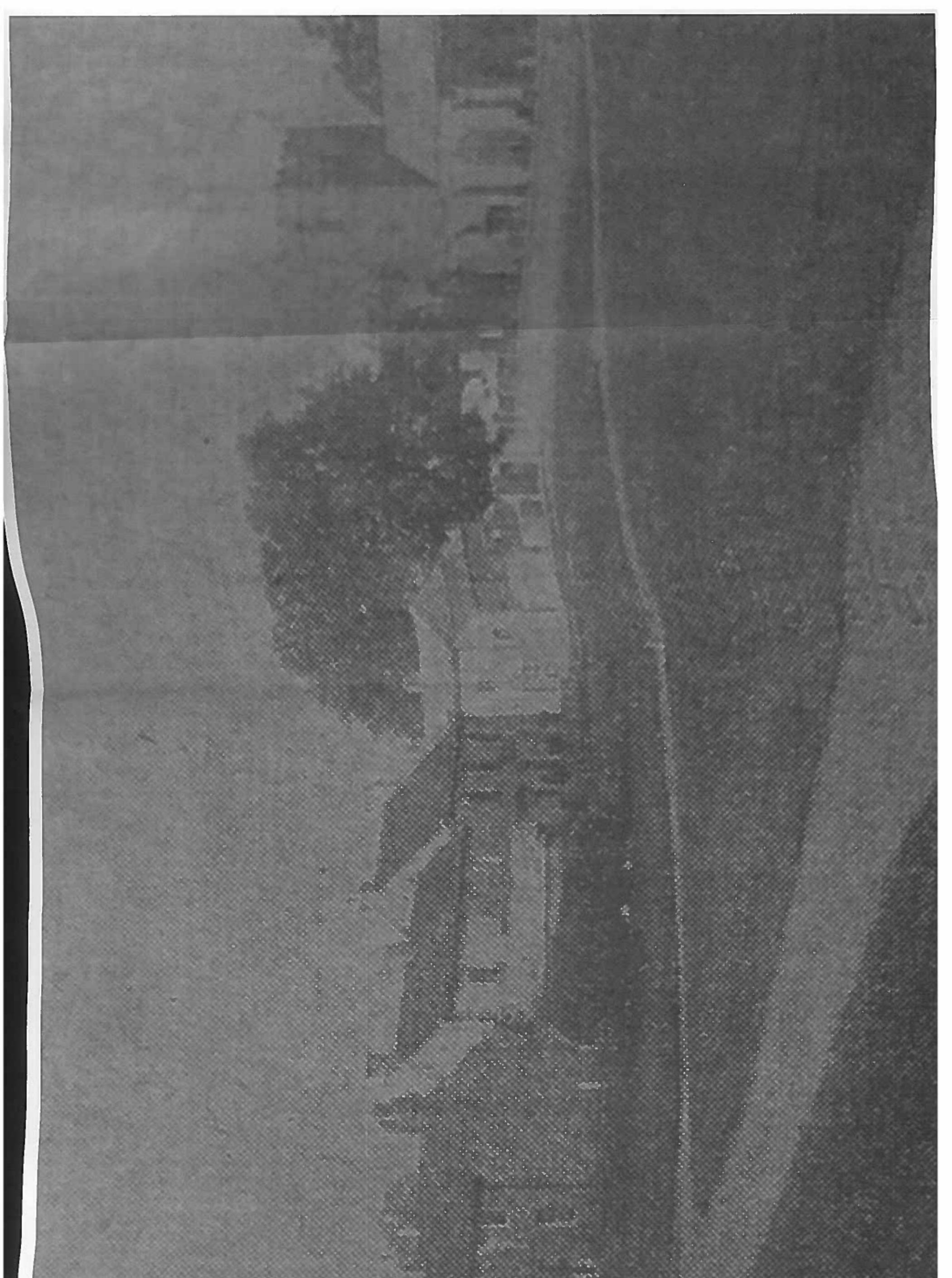
Regards,

Mr. N. E. Bond  
Greenholme  
Romaldkirk  
Barnard Castle







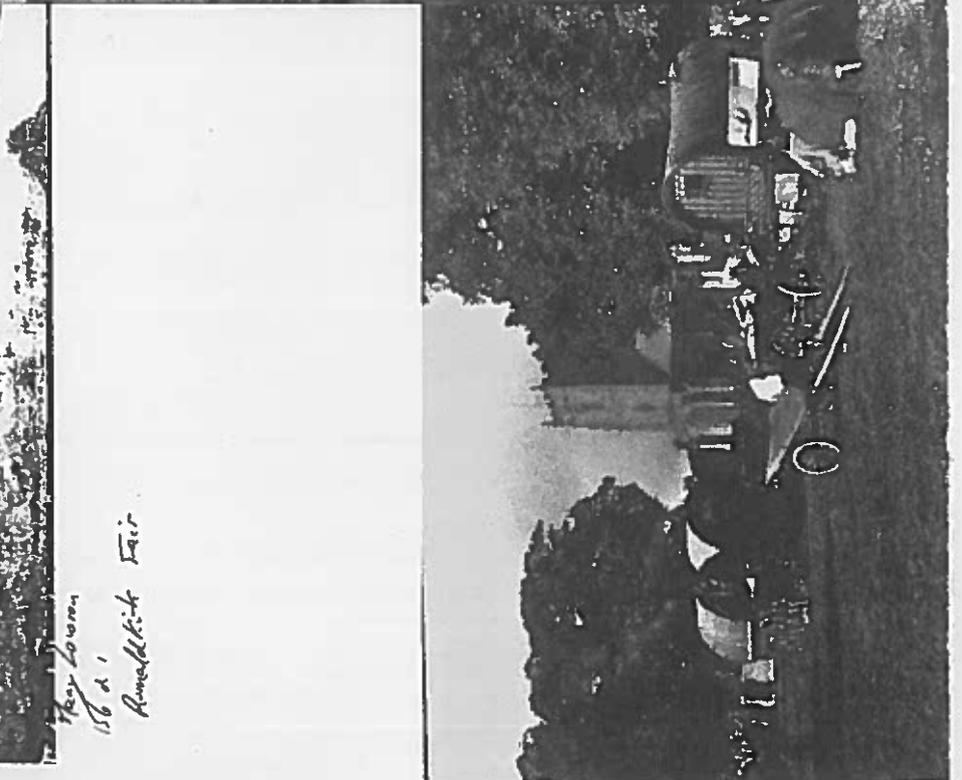
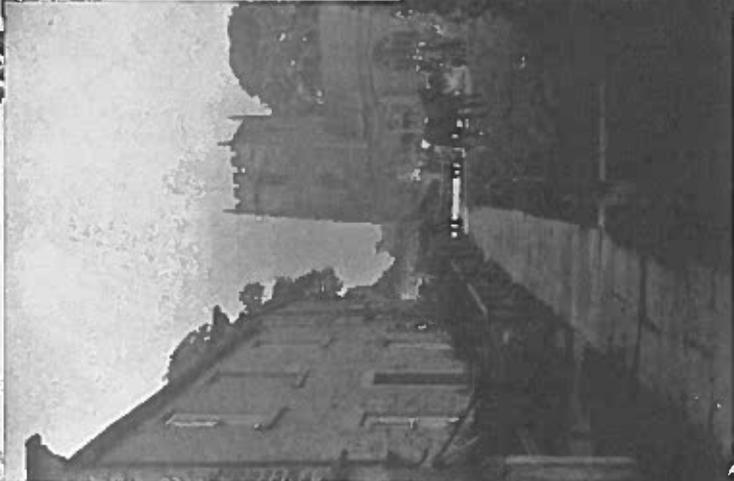




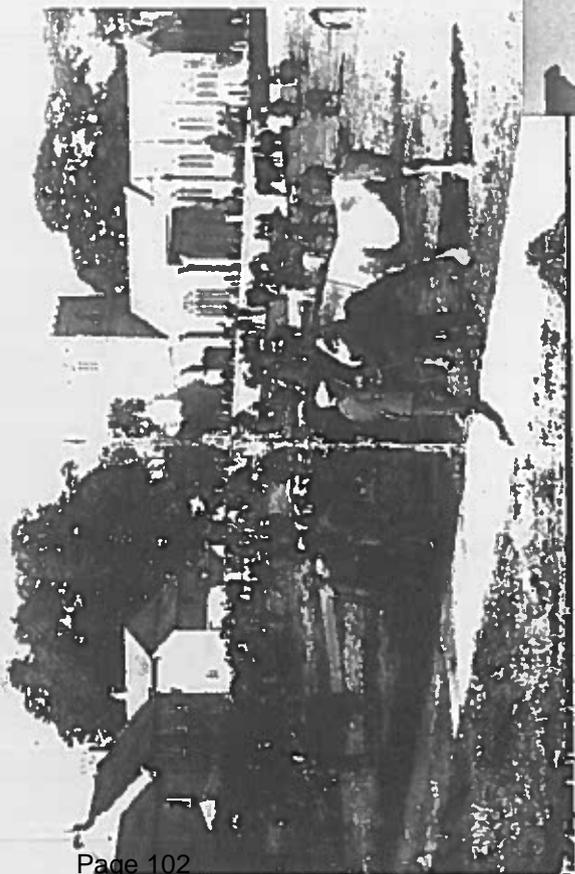


S

Ronald Kirk Fair . 1.



Key Town  
156 d.  
Ronald Kirk Fair



Contact: Clare Cuskin  
Direct Tel: 03000 269 723  
Fax: 0191 3833690  
email: [clare.cuskin@durham.gov.uk](mailto:clare.cuskin@durham.gov.uk)  
Our ref:



Mr and Mrs Webb  
Rose Stile Cottage  
Romaldkirk  
Barnard Castle  
County Durham  
DL12 9ED

11 May 2018

Dear Mr and Mrs Webb,

**RE: Application to Register Land as Village Green – Land Adjacent to Middle Green,  
Romaldkirk**

By way of introduction, I am acting for Durham County Council as the Commons Registration Authority in determining the above-mentioned application to register land as a village green ("the Application Site").

I have reviewed the documents and representations submitted by all parties and must advise you that I have some concerns about the application.

As you may be aware, in order for land to be registered as a town or village green, one of the criteria which must be satisfied is that the land in question has been used 'as of right'. In general terms, 'use as of right' means that the use of the land must have been without force, secrecy or permission.

I have been made aware of the existence of a Deed dated 4<sup>th</sup> September 1930. This deed applies the provisions of Section 193 of the Law of Property Act 1925 to the land known as "Romaldkirk Town Street" (commonly known as "The Village Green"). If land is subject to the provisions of Section 193 of the Law of Property Act 1925, this means that the public has a right of access to that land 'for air and exercise'.

If the Application Site is subject to the provisions of Section 193 then, in my view this means that the Application site has been used with permission rather than 'as of right'.

Before I finalise my report to Members of Durham County Council's Highways Committee, I wanted to give you the opportunity to comment upon this issue. I am willing to allow you a reasonable time period in which to comment. I would suggest a period of 14 days from the date of this letter.

**Corporate Resources – Legal & Democratic Services**  
Durham County Council, County Hall, Durham DH1 5UL  
Main Telephone 03000 260000

However, if this would cause you difficulty please let me know, as I would be happy to extend this deadline.

Please do not hesitate to contact me if I can be of any further assistance.

I have also sent a copy of this letter to the Parish Council.

Yours sincerely,

*Clare Cuskin*

**CLARE CUSKIN  
SOLICITOR (PLANNING AND DEVELOPMENT)**

Contact: Clare Cuskin  
Direct Tel: 03000 269 723  
Fax: 0191 3833690  
email: [clare.cuskin@durham.gov.uk](mailto:clare.cuskin@durham.gov.uk)  
Our ref:



Mrs L Cutting  
Chair of Romaldkirk Parish Council  
Bilbardie  
Romaldkirk  
Barnard Castle  
DL12 9EE

11 May 2018

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I have also sent a copy of this letter to the occupants of Rose Stile Cottage.

Yours sincerely,

*Clare Cuskin*

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SOLICITOR (PLANNING AND DEVELOPMENT)**

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Our ref:



Mr and Mrs Webb  
Rose Stile Cottage  
Romaldkirk  
Barnard Castle  
County Durham  
DL12 9ED  
**BY EMAIL**

2 July 2018

Dear Mr and Mrs Webb,

**Re: Application to Register Land as Village Green – Land Adjacent to Middle Green, Romaldkirk (“the Application”)**

I write further to my letter dated 11 May 2018 and the meeting with you on 31 May 2018.

As I explained during our meeting, my role in determining the Application is to consider whether the evidence submitted demonstrates that the statutory criteria for registering land as a village green have been met and thereafter prepare a report to Durham County Council’s Highways Committee, which is the body responsible for determining the Application.

For the avoidance of doubt, I am not the decision-maker in respect of the Application, nor have I arrived at any firm conclusions in respect of what my recommendation to Members of the Highways Committee will be.

As discussed, I have a number of concerns in respect of the Application. In particular, I am keen to obtain the views of both the Parish Council and you as objectors in respect of a number of issues. These issues are as follows:

1. Does the Deed dated 4<sup>th</sup> September 1930 apply to the Application site?

As discussed, it is not certain whether the Application site is included within the land referred to in the 1930 Deed. The plan attached to the 1930 Deed is expressly stated not to be part of the Deed. However, on the other hand, the plan does state that it is intended to show the lands referred to within the Deed.

**Corporate Resources – Legal & Democratic Services**  
Durham County Council, County Hall, Durham DH1 5UL  
Main Telephone 03000 260000

2. If the 1930 Deed is found to apply to the Application site, does the Deed meet the criteria in Section 193(2) of the Law of Property Act 1925 and is the Application site land to which the provisions of Section 193 applies?
3. Can sufficient usage of the Application site be demonstrated to meet the statutory criteria for registration?

I look forward to receiving any comments you may have in respect of the above issues. As discussed at our meeting, I am unable to advise you in respect of the Application and would always recommend that you seek your own independent legal advice in respect of this matter.

I would suggest a period of 3 weeks from today (23 July 2018) for submission of any further representations in respect of the above matter. However, I am willing to consider extending this period further if necessary. Please let me know if this deadline is inconvenient.

Please do not hesitate to contact me if I can be of any further assistance.

I have also written to the Parish Council in the same terms as this letter.

Yours sincerely,



**CLARE CUSKIN**  
**SOLICITOR (PLANNING AND DEVELOPMENT)**

Contact: Clare Cuskin  
Direct Tel: 03000 269 723  
Fax: 0191 3833690  
email: [clare.cuskin@durham.gov.uk](mailto:clare.cuskin@durham.gov.uk)  
Our ref:



Mrs L Cutting  
Chair of Romaldkirk Parish Council  
Bilbardie  
Romaldkirk  
Barnard Castle  
DL12 9EE  
**BY EMAIL**

2 July 2018

Dear Mrs Cutting,

**Re: Application to Register Land as Village Green – Land Adjacent to Middle Green, Romaldkirk (“the Application”)**

I write further to my letter dated 11 May 2018 and the meeting with you and the various Romaldkirk Parish Council representatives on 28 June 2018.

As I explained during our meeting, my role in determining the Application is to consider whether the evidence submitted demonstrates that the statutory criteria for registering land as a village green have been met and thereafter prepare a report to Durham County Council’s Highways Committee, which is the body responsible for determining the Application.

For the avoidance of doubt, I am not the decision-maker in respect of the Application, nor have I arrived at any firm conclusions in respect of what my recommendation to Members of the Highways Committee will be.

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Please do not hesitate to contact me if I can be of any further assistance.

I have also written to the occupants of Rose Stile Cottage in the same terms as this letter.

Yours sincerely,



**CLARE CUSKIN**  
**SOLICITOR (PLANNING AND DEVELOPMENT)**



MANOR OF ROMALDKIRK  
in the County of York.

TO ALL TO WHOM THESE PRESENTS shall come

I, CLAUD SNUSHALL of the Rectory Romaldkirk in the North Riding of the County of York ~~Master of Arts~~ Clerk in Holy Orders, Lord of the Manor of Romaldkirk send greeting:-

1. WHEREAS "Romaldkirk Town Street" in the Parish of Romaldkirk is parcel of the waste of the Manor of Romaldkirk and is commonly known as "The Village Green"

AND WHEREAS the same is subject to the rights of the villagers to common of pasture and to other similar rights

AND WHEREAS it is desirable that the public should subject to the rights of the villagers have access to the said premises

AND WHEREAS I the said Lord of the Manor am desirous of dedicating the said premises to the public subject to the aforesaid rights of the villagers

NOW THEREFORE I the said Claud Snushall as Lord of the said Manor of Romaldkirk hereby declare

1. That Section 193 of the Law of Property Act 1925 shall apply to the said Romaldkirk Town Street so far as the same is parcel of the wastes of the said Manor

2. That this deed shall be at any time revocable by the Lord of the said Manor for the time being by deed deposited with the Ministry of Agriculture and Fisheries

Dated at Romaldkirk this Fourth day of September  
One thousand nine hundred and thirty

SIGNED sealed and delivered by the said }  
Claud Snushall in the presence of:- }

W. Mauley Jones

Solicitor

Barnard Castle

Steward of the Manor

Ronald Kirk's Village  
Green.  
Yorko

Deed of Declaration.

I do hereby certify that this deed has been deposited with the Minister of Agriculture and Fisheries under sub-section 2 of section 193 of the Law of Property Act, 1925 this 30th day of September, 1930.

IN WITNESS whereof the Official Seal of the said Minister is hereunto affixed.



*Leitch*

Authorised by the Minister.



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25<sup>th</sup> July 2018

To Whom It May Concern:

I Richard Wall of Kleine Cottage, Romaldkirk have lived in the village since 23<sup>rd</sup> July 1947. I have always understood that the grass in the middle of the village including the sections outside of peoples' houses is designated village green and I believe that this should remain to be the case.

Over the years I have seen a lot of recreational activity on these areas including children playing, dog walking and even hay making.

I have a right of way next to the section in question, up Sennings Lane. I have seen many people walk over the area in question as it gives quick access to Sennings Lane.

Kind Regards

Richard Wal.

Kleine Cottage  
Romaldkirk

## Romaldkirk Village Green Statement

1. Mr Jon-Paul Cutting

Currently living at; Snooze Croft; Rearquhar, Dornoch, Sutherland, IV25 3NE

Joint owner of;

The Old Butcher's Shop, Romaldkirk, Barnard Castle, Co Durham, DL12 9EH

2. I lived in Romaldkirk from 1979 until 2001 with my parents at Balbardie and then from 2001 until 2007 with my wife at Greenside on Fell Lane then Caroline Cottage next door to the Kirk Inn, whilst renovating The Old Butcher's Shop which we lived in from 2005 until 2007 and still own.

3. I grew up in the village and spent a great deal of time playing around the village with my friends, including Nigel Addison and Mark Lawson. We were often on our bikes and would regularly ride across the greens including the piece of land in question.

I remember that we made a 'jump' for our bikes on that piece of land using the stones placed there to prevent cars from parking on the grass. One of my friends lived in the house opposite.

Me and my friends used to join in with the Youth Club held most Friday evenings, there were varied activities but one that I remember in relation to this piece of land was playing on it before and after playing hide and seek in the garden in front of Rose Stile Cottage (empty at the time).

I can also remember that part of the green being used by people sitting and standing to watch the cars taking part in the annual Beamish car rally coming along the road in front of the Kirk Inn.

Each year during the village summer fair, people would also stand and sit there, particularly during the children's procession.

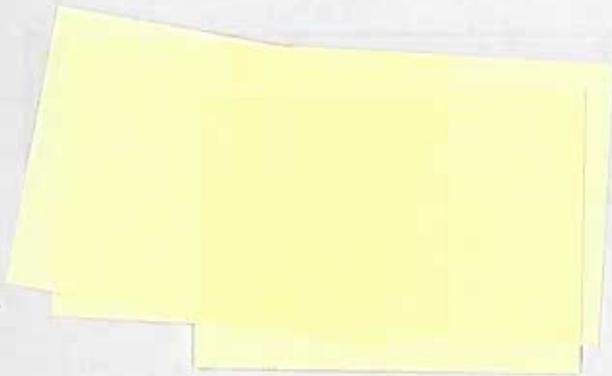
Until around 2003 The Kirk Inn used to organise a bonfire and fireworks display on Bonfire Night on the main green to which people travelled from other villages and towns often resulting in a large crowd, some of whom I can recall would be stood on that piece of land to watch the display.

Whilst living at Caroline Cottage, we parked our car alongside the main village green directly in front of the cottage and in walking to and from the vehicle I regularly (at least weekly, sometimes daily) saw people (walkers, dog walkers,

both local residents and visitors) walking over the land to access Sennings Lane, something that I also did.

My parents live at a property off the bottom end of the main green so again when walking or driving up and down the village to their property (which I still do when we're down to visit four or five times a year) I saw and sometimes still see walkers crossing the piece of land.

4. I can confirm that I have used the land for the purposes described above and that this has been between at 1979 and 2007 and I can confirm that I have also seen the land used for the purposes described above whilst I was living in the village and on subsequent return visits.



## Romaldkirk Village Green Statement

1. Mrs Jane S Cutting

Currently living at; Snooze Croft; Rearquhar, Dornoch, Sutherland, IV25 3NE

Joint owner of;

The Old Butcher's Shop, Romaldkirk, Barnard Castle, Co Durham, DL12 9EH

2. I lived in Romaldkirk with Jon-Paul Cutting my then boyfriend now husband, from 2001 until 2007, firstly renting Greenside on Fell Lane then Caroline Cottage next door to the Kirk Inn, whilst renovating The Old Butcher's Shop which we lived in from 2005 until 2007 and still own.

I have known Romaldkirk since childhood as I have relatives living in the area, and have walked through the village on many occasions as part of 'expeditions' undertaken for the Duke of Edinburgh (DoE) Award scheme.

3. I can recall sitting on a public bench (no longer there) on the piece of land in question to eat a packed lunch during one of those DoE expeditions, which took place between the years of 1983 and 1984 whilst I was a pupil of Longfield Comprehensive School in Darlington. My group had arrived into Romaldkirk from along Senning's Lane (part of the Teesdale Way).

Whilst I was living at Caroline Cottage (around 100m to the North of the land in question) I had occasion to stand there in order to look at the TV aerial for the cottage as we were experiencing problems with the reception.

Also whilst living at Caroline Cottage, we parked our car alongside the main village green directly in front of the cottage and in walking to and from the vehicle I regularly (at least weekly, sometimes daily) saw people (walkers, dog walkers, both local residents and visitors) walking over the land to access Sennings Lane, something that I also did, particularly when walking down the village on a circular route from and back to either Greenside or The Old Butcher's Shop. Indeed, especially on Summer weekends, that stretch of road where we parked was often also used by people either visiting the pub or parking to walk from there, some of whom would go down Sennings Lane and sometimes, particularly if there was a group of walkers or a couple of families meeting up, people would move off the road and onto the land whilst the party assembled so that they were not blocking the road. I can remember watching a baby being strapped into an 'all-terrain' buggy on the land in question, (they were a novelty at the time).

My husband's parents live at a property off the bottom end of the main green so again when walking or driving up and down the village to their property (which we still do when we're down to visit four or five times a year) I saw and sometimes still see walkers crossing the piece of land.

Until around 2003 The Kirk Inn used to organise a bonfire and fireworks display on Bonfire Night on the main green to which people travelled from other villages and towns often resulting in a large crowd, some of whom I can recall would be stood on that piece of land to watch the display.

4. I can confirm that I have used the land for the purposes described above and that this has been between at least 1983 and 2007 and I can confirm that I have seen the land used for the purposes described above, both whilst I was living in the village and on subsequent return visits.



Thursday 26th July 2018

My name is Alison Walton and I have lived at The Shieling Romaldkirk since 1999.

When I first moved here my 2 children were small and as we had no garden space they would play on the village greens including the Application land adjacent to Sennings lane.

My son William would often play with Ivan Carter Becker from the Hall as they were at the same school and this would be a couple of times a week when the weather was good.

I have a dog and again with having no garden I walk him everyday around the village and use Sennings lane and the land about 3-5 times per week.

I see most days Lesley Cutting on the Application land with her dog Wallace and also Paul Jackson from the Kirk Inn heading towards Sennings lane with his dogs off the lead and on the land in front of Rose Style and Rose Style cottage. I see him leave the Kirk with his dogs every day as my front door is virtually opposite his.

I am also aware that Mrs Gill Blakeman from Post House Cottage, opposite me, walks accross this area and down Sennings Lane most days with her dog Bramble.

The Application land can easily be viewed from many of the roads around the Greens and I have witnessed Ramblers ,local dog walkers and village children using the land.

I have always considered this land to be village green and have used it accordingly.

Kind regards,

Mrs. Alison Walton  
The Shieling  
Romaldkirk

July 2018

17<sup>th</sup>

**Witness Statement of Evelyn Lee  
Romaldkirk Village Green Application Land**

My name is Evelyn Lee and I have lived at Bengey Hill, Snaigill Road, Middleton-in-Teesdale since 1967.

Since 1996 I have travelled 3 days per week to The Hall at Romaldkirk, to work as secretary and personal assistant to Gillian Carter. Therefore I drive past the Application Land for Romaldkirk Village green status at least twice a day 3 days per week.

As well as driving past the Application Land I would walk past the Application Land to the Kirk Inn Post Office on most of the three days until it closed in 2008 and after that I would drive to the Post Box at the bottom of Fell Road to post the day's correspondence.

Until 2008 I would take one of Miss Carter's dogs Nell, who was semi-blind up the village over the Application land and the continuing village greens along the Sennings Lane Highway, across the road and up the Fell Road. This was every afternoon when I was working. I therefore had ample opportunity to see all activities happening in and around the Village Green.

I would see Dorothy Goodall with her dog and Mary Kirkup from the Alms Houses with a large tan coloured dog walking over the Application Land. Also, most days I would see Mr Jackson from the Kirk Inn, and his dogs as he entered and existed Sennings Lane. I have seen walkers stop to check their route with their maps and also children of day trippers and residents playing on the Application Land.

July 2018

**Witness Statement of Gillian Carter  
Romaldkirk Village Green Application Land**

My name is Gillian Carter and I have lived at The Hall, Romaldkirk since 1985. I have a right of way along Sennings Lane which leads to my paddocks and woodland and this lane runs adjacent to the Application Land.

The Hall is approximately 60 Metres from the Application Land and must be passed on entering/leaving The Hall.

The Application Land has been used extensively by myself, family and friends since 1985, and absolutely throughout the qualifying period 1996 – 2016.

As a family we have had dogs and horses throughout my life in Romaldkirk, so exercising them has always been a priority, combining this with working from home.

Lesley Cutting's land is at the top of the village and she would take my Shetland pony and her horse from my paddock up to the fields. The Shetland would always walk on the grass (Application Land) as it was unshod. This would happen at least 3 times per week and I would go with her to bring the horses in if the weather was bad or the dogs needed a walk.

My son Ivan was born in 1989 and has given his own statement about use of the Application Land. I witnessed him playing on the Application Land on Middle Green with his friends from the village most weekends during the summer/autumn months as this was a safe area to be. This would be from 1995 to 2005

Since 1996 I have worked full time from home and therefore have had much opportunity to monitor everyday activities around the village. The following are activities/village residents I have seen on the Application Land and frequency:-

Lesley Cutting (resident) walking her dog on the Application Land and about twice per week standing chatting with me.

Alison Walton (resident) walking her dog at least twice per week.

Harry and Elizabeth Dick with their dog about once per month.

Dinah Needham (lives directly opposite the Application Land) walking over the land towards Sennings Lane about once a week.

Gill Blakeman (resident) walking her dog. She lives on the same side of the road as the Application Land and comes down to Sennings Lane or to my Coach House which is occupied by her mother-in-law. I have seen her about once a month.

Delius and Lara Singer (residents) walking with 2 dogs every weekend.

Joanne and Derek Nixon (residents) walking with one dog every weekend.

Val Henderson(deceased) lived directly opposite the Application Land and would exercise her dog on the Village Green outside her house and on the Application Land. I have also seen Mrs Henderson sitting on the Application Land on a summer's day when she would move her chair from outside her house to follow the sun, whilst reading. Neville Bond (resident), collected two of my dogs every morning for two years (approx 2009-2011) and would walk up the village over the Application Land, and subsequent parcels of village green towards Hunderthwaite or the Fell Road at the top of the village.

Page 2

July 2018

18<sup>th</sup>

Witness Statement of Gillian Carter  
Romaldkirk Village Green Application Land

In the last few years I have seen him with his son's dog also on the Application Land. Dorothy Goodall (deceased) with one of her many rescue dogs, coming over the Middle Green past the Application Land to go up Sennings Lane to see her horse in my paddock. Her dogs would not be on leads as they were not near a main road and they would run around.

Sarah Wall, who came back to the village in 2010, standing on the Application Land with a push chair and toddler, talking to Lesley Cutting, sometimes with her dog Keto. Various pre school children from the village playing on the Land with parents.

The Teesdale Way runs directly along Sennings Lane past the Application Land and is a main thoroughfare for all Ramblers, casual visitors and dog walkers. The Application Land is a natural stopping point on entering the village and I have on numerous occasions stopped to chat with people who are asking directions for the next part of the Teesdale Way, asking about the pubs for food or indeed just chatting about the beauty of the village with other walkers and residents.

I pass the Application Land on foot at least once a day either to the post box, Reading Rooms, or Rose and Crown Hotel. I drive past it at least twice a day and it is easily seen from my garden and security monitor and therefore have the ability to see the Application Land and activities at all times.

Fair Day and Beamish Rally and Open Gardens Day in Romaldkirk all attract many visitors. On these annual occasions I can absolutely say that they have all used the Application Land to sit or stand on to watch, or in the event of the National Trust Open Gardens, have walked past every house in Romaldkirk abutting the Village Greens to catch a glimpse of all gardens.

I have used the land without secrecy and as of right for 33 years and have always known it as Village Green.

The application area was identified as part of Romaldkirk Village Greens under the Law of Property Act 1925, on the 30<sup>th</sup> of September 1930 by the then Lord of the Manor, Claud Snaishall.

Canon Lee registered the Village Greens in 1969, tracing from the 1930 map the boundaries had been miss drawn, this hadnt been picked up on until recently, but the area had always been regarded as open space freely available for residents to use.

We bought our property in Romaldkirk in 1976, by 1978 our son had made friends with the other boys in the Village, some would come from Hollin Crescent using Sennings Lane, the track to meet up with others on the green at the bottom of the track, and vice versa. At times they all used to race down the track when it was muddy ending up on the green, there used to be a bench by the wall of Rose Style Cottage which drew you to that place as there were not the number of benches as there are now, the Finger Post sign for the Teesdale Way was also placed there, this can be clearly seen on Google street View 2009, but the bench had long gone.

I can remember William Icton sitting on the bench chatting to people and sometimes just sharpening his scythe.

After the passing of Cannon Lee the management of the village greens was given to the Parish Council, Two lawn mowers were bought available for residents to cut the greens outside their property, the large areas were taken for hay by a local farmer, this arrangement went on a number of years until Rev Roy Boff, as Lord of the Manor took over the responsibilities of the Village Greens. He created a committee to help him manage the greens, myself and my partner were part of this committee and held a fundraiser at our house to get funds for grass cutting contractors etc, this stayed in place until Reverend Derek Dalton handed the Village Greens back to the Parish Council in 1997. All the time of the VG committee the application area was treated as village green. I then joined the Parish Council so I could still be involved in the care of the greens.

I was a member of the Parish Fair committee from the 1980, part of my responsibilities were organizing the fancy Dress Parade and putting up the bunting. I made new bunting to go around the village and the team would meet on the Wednesday night before the fair and dress the village, David Robinson and Andy Cosgrove used to do the stretch along from Sennings lane to the reading Rooms and across the top green, the bunting was draped from the trees in Rose style cottage and house gardens which was accessed from the application area. Due to H&S reasons the fair was focused on the lower green the bunting was hung from the trees and usually finished at Sennings Lane end on the finger post.

The Fancy dress parade met outside the Reading Rooms for judging then walked down Sennings Lane to the Low green, it is quite common to see people stood spectating on the application area as it was a natural viewing point, the greens further up were very narrow, I myself would stand there and write out the results for the Guest to announce, as there were usually cars parked outside Dene Lodge and Rosedale.

We used to have open gardens on the morning of the fair, this then became part of the NGS scheme held in June, Rose Stile Gardens were always part of the open gardens until Professor Bowen Jones health deteriorated approximately 8 years ago, people wandered all over the area and rested on the greens.

I recall seeing Christine Hayton from Heather Cote, Fell Lane on the application area many times, with her horse and pony she would let children have rides this would be 2014 approximately, she has now moved from the village. I myself have been on the land after riding from the track and then moving up the village and I would often be with other riders sometimes Gill Carter, Sarah Wall, or Jim Aird.

When Val Henderson moved to the village permanently, Dene Lodge, her car was parked outside so you were naturally moved towards the application land as the road is narrow when you met anyone to talk to, I have seen the children who live in the Old Post House there, especially when there is snow down.

Aileen Clarke who lived at Beechbeck use to met up with other dog owners and they would do some training together at Sennings Lane side of the green to be away from the main road.

I helped a friend with her horse so walked regularly to the hall then would go for a walk with my dog usually up the track or up towards the Reading Rooms, I would say I met Jill Blakeman daily coming from the Old Post house sometimes with her children or at weekends just the two children would walk their dog.

I regularly met Alison Walton during the day and night she would be coming down the village as part of her loop we often met as I was going to the Reading Rooms just outside Rose Stile for a chat, then Di Needam would come out of her house with her dogs for their walks. I would see Neville, Alison's father, he would make his way over the application area checking Rose Stile's gate, it would fall over, and he kept an eye on Rose stile as Howard Bowen Jones was in poor health as did we all when we were passing by. I was often asked directions regarding the walks from that point as it is a busy walking route used by many of all ages. The Duke of Edinburgh candidates setting off from the village every year and resting in various groups on the greens.

The Village Bonfire night became popular, with many people coming from surrounding areas for the free event, the village was mobbed with people and cars, the bonfire and fireworks were on Low green at the top, west end, was cordoned off for H&S sake, a lot of spectators were in the area it was inevitable people stood in front of Hall cottage, Rose Stile, Dene Lodge and around to the Kirk.

As a long term resident of the Village I have always believed, due to its identical nature to the rest of the Village Green that the application land was such and have therefore used it accordingly, as have others.

Lesley Olivia Jane Cutting

Romaldkirk Parish Council Chair.

16<sup>th</sup> July 2018

My name is Martin Neil Jewitt and I have lived and farmed at Gracies Farm Romaldkirk since 1987, previously living at Bunker Hill, Romaldkirk with my father until the age of 16.

Although I have not used the land in front of Rose Stile and Rose Stile Cottage myself, I drive through Romaldkirk village on a daily basis sometimes up to three times per day to check on

my land at Croft Yokes, Eggleston Lane or the Glebe land behind the Rectory in Romaldkirk which entails passing the parcel of land in question. I would be delivering sheep, feeding cattle etc and other land activities.

Since 1997 and also prior to that I have seen numerous residents including but not limited to, Gillian Carter, Dorothy Goodall, Neville Bond, Harry Dick, all of whom have lived here longer than 20 years walking with their dogs around the village and over the parcel of land always regarded as village green, on a daily basis. I would see at least one of them daily depending on my schedule of work or indeed if I was visiting friends in the village when I would stop to chat with whoever was out at that time.

Other dog walkers I have seen are Joe Cosgrove, Mr Colin Jarvis, Mrs Blakeman, and Alison Walton, all residents, on this land.

Over the years I have seen numerous children playing on this part of the green, sometimes with bikes. These would include Ivan Carter Becker, Neil Gaskin, and William Walton of Hollin Crescent. They would ride bikes up and down Sennings Lane and then sit on the land. I have seen other children, whom I don't know also playing here in recent times.

Other newer residents, Mr and Mrs Singer, Mr and Mrs Nixon also use this land for dog walking and relaxing. I see one or the other most weeks.

This land has always been used for community social activities within the village. Romaldkirk Fair is an annual event which covers Sennings Lane from the Reading Rooms at the top of the village down Sennings Lane to the Lower Green with people following the fancy dress parade to the Lower Green and standing on the Rose Stile grass to watch the judging.

The land sits directly adjacent to Sennings Lane track, a public right of way and indeed until the last few years, the Teesdale Way sign was sited on it. It was moved onto the Lower Green for some unknown reason. This track which leads to and from Barnard Castle is very popular with ramblers, dog walkers and visitors staying at the holiday cottages at the Rose and Crown and therefore the land is a natural stopping point. Rambling groups often congregate here to check their maps as they have to cross the Lower Green to find Primrose Lane (the next part of the Teesdale Way). I have witnessed this most weekends throughout the years.

The land has always been known as village green and used accordingly in my lifetime here.

I was born in Romaldkirk at Low Green Farm and lived there from 1978 to 1996 when I went to university, returning home at weekends and holidays. During this time I would ride my ponies through the village with Lesley Cutting, we would ride up past Rosestyle and Dene Lodge, if cars were parked on the road we would use the greens in front of Rosestyle along to the village reading room, we always considered this land to be part of the village green as it seems identical to all other area of the greens.

I came back to live in Romaldkirk full time in 2010 and am now married with 3 children. Since that date I have walked up the highway adjacent to the application land on a regular basis, letting my children play on the Application land. I have stood on the Application land with other locals such as Lesley Cutting and Alison Walton both of whom had been walking their dogs over the land at the time. It is not uncommon to see locals from the village and visitors walking their dogs on the land.

Living in Romaldkirk I have a clear memory of the various fair days that have been held in the village. This is a regular event held once a year on the village greens, and is an event I have regularly been involved with over the years and now take part with my children. Part of the fair is a fancy dress competition which starts at the reading rooms and sees the participants parade down the road to the lower green. When this parade happens each side of the road and the green areas behind it are full of locals and visitors spectating. The Application land is included in this activity with spectators using the area. I myself have taken part in the competition both as a child , with other children and now with my children and have seen people using the land as above.

In my time living in the village I have always understood the application land to be part of the villages greens and have used it as if it were, this seems to have been the same for most locals and certainly from my observations the land has had regular use by the villagers for recreation and pastimes.

Sarah Wall

## Statement - Ivan Carter Becker

Dear Sirs,

I have lived in Romalldkirk since birth (1989) and apart from leaving for educational purposes, in which times I would regularly return for extended periods, weekends, holidays etc, the village has always been my place of residence. As such I feel confident that I am able to provide a full statement of the activities undertaken on the land in question, that I have both witnessed and taken part in.

The land in question forms part of the wider open green space of Romalldkirk with no defining features to suggest that it is in anyway distinct for the surrounding Village Greens, indeed I would have always assumed it to have been such and my use of the land has thus been on that assumption.

My first memories of using the land start from around the age of 7/8 when friends and I from Hollings Crescent would use the land and its surroundings as a bike track, and general area to play. This would be a regular use, after school and in the holidays. The land in question formed part of a bike track that friends and I would use to race around the village, I have a clear memory of being 'told off' by a property owner adjoining the said land for 'riding bikes on the Village Green'. The land also formed part of a wider area to play in general.

My use of the land then continued in the form of walking our families dogs up until the age of around 24, again the land forming what I assumed to be the wider Village Green and thus using it so. In addition to this use I have also used the land intermittently while running, taking up the pastime between the ages of 16-25.

With regards to the activities I have witnessed on the land, I have regularly seen children from the village using the area to play upon. This includes the friends and other children who used the area at the same time as myself and those who I have seen using the land more recently until the parking of a car and planting on the land have made such more difficult.

In addition to local children, the area is often used by dog walkers making their way around the village or up Sennings lane, local inhabitants such as Lesley Cutting, Alison Walton, Neville Bond have used the area since my first memories and more recently Joanne Nixon and Delius Singer could regularly be seen using the land for such purposes.

With regards to other uses, I have witnessed owners of adjoining properties such as the now deceased Howard Bowen-Jones and the Webb family use the land for recreational purposes such as sitting out to watch the Beamish Rally and the village fair, various other local inhabitants also using the land to watch the fancy dress parade which would start at the village reading room and make its way down to the 'middle green'.

In summary, I have lived or regularly visited in the village of Romaldkirk during the full qualify period for the application for the registration of the land as a Village Green. Having regard to the criteria for such a registration I am of the firm belief that through my own use and the observation of other users the requisite user has been satisfied and as such support the application.

Kind Regards

Ivan Carter-Becker

IN THE MATTER OF:

ROMALDKIRK VILLAGE GREEN

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ADVICE

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1. I am asked to advise in relation to a parcel of land that lies within the parish of Romaldkirk and upon which a dispute has arisen in respect of its registration as a village green.
2. In summary, I am of the view that in following the statutory trail, that the deed no longer applies and therefore absent any other evidence to the contrary it is not adverse to the “as of right” argument to prevent registration.

BACKGROUND

3. The issue stems right back to 1967 when various parcels of land were registered as a village green under the Commons Registration Act 1965 where unfortunately a parcel of land was missed off due to the fact that the plan submitted had been a mis-drawn and therefore did not include it for registration.
4. I have seen various photographs and plans highlighting the location of this parcel and in addition undertaken examination using the Google Earth software.
5. In February 2016 Romaldkirk Parish Council (RPC) attempted to have this parcel of land registered as a village green but met with objections inter alia from the owners of the property known as Rose Style Cottage; of which this parcel of land adjoins.

6. A document had come to light being a deed of settlement made in 1930. In essence, this deed was made by the owner at the time, of various parcels of land in Romaldkirk. I can only assume the parcel of land in question is encompassed in this deed and therefore for present purposes I will assume the deed applies. Those requesting this advice have no doubt considered this point and I have received no instructions that it does not.
7. The deed itself gives permission to the public to have access over and on this and other parcels of land and to use as if it was a village green and such rights were enshrined in section 193 of the Law of Property Act 1925.
8. There is then further a letter dated 11 February 1997 whereby the then Lord of the Manor in effect handed over the management, maintenance and husbandry of the village greens to the local parish council.<sup>1</sup>
9. After the application was submitted, a letter was received from Durham County Council dated 11 May 2018, which was acting as the Commons Registration Authority in determining the said application.
10. In that letter they expressly state that they have some concerns about the application and in particular whether the land has been used, "as of right". This they define as use of the land without force, secrecy or permission.<sup>2</sup>
11. Their concern primarily relates to the aforementioned deed and thus the granting of the permission to use this and other parcel of land. As such, this would obviously negate the use of the land, "as of right" since there would be permission.
12. The question posed therefore is whether the deed has resulted in permission and therefore prevents registration of the village green by the

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<sup>1</sup> I am not of the opinion this takes the matter any further since it provides no permission,  
<sup>2</sup> And are correct.

local council in that the criteria set down in section 15(1) of the Commons Act 2006 namely the “as of right” aspect has not been so satisfied.

### Town or village greens

13. Legislation has recognised the significance of these areas since 1845 but was considerably enhanced by registration requirements imposed by the Commons Registration Act 1965 (“CRA”). The act required the registration of land, which is a town or village green and provided three classes of greens.

- i) Class, A which had been allotted by under any act the exercise a recreation of the inhabitants of any locality.
- ii) Class B land on which the inhabitants of any locality have a customary rights to indulge in lawful sports and pastimes
- iii) Class C land on which the not less than 20 years a significant number of inhabitants of any locality or any neighbourhood or neighbourhoods within a locality have indulged in lawful sports and pastimes as of right and either continue to do so or have ceased to do so from not more than such period as may be prescribed determined in accordance with prescribed provisions.

14. Land capable of being registered as a town or village green had to be registered before August 1970 and applications for registration had to be made before 3 January 1970. Failure to register was conclusive and extinguished such rights and recreation as were registrable at that date. It appears that claims to Class A and B greens which were not registered ceased to become tenable after January 2 1970.<sup>3</sup>

15. However there remains the possibility that land may have become a town or village green after 2 January 1970 and that is where a claim is made for a new class C green based on 20 years user as of right.

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<sup>3</sup> R v Oxfordshire CC ex p Sunningwell PC [2000] 1 AC 335 at 348

16. This was authoritatively stated by Lord Hoffmann giving the leading judgment in *Oxfordshire County Council v Oxford City Council*<sup>4</sup> that the 20 years' user was necessary to establish a modern green.

#### Registration of a New Village Green

17. The current application as referred to above was made under section 15 of the Commons Act 2006 which states:

*(1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.*

*(2) This subsection applies where–*

*(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged **as of right** in lawful sports and pastimes on the land for a period of at least 20 years; and*

*(b) they continue to do so at the time of the application.*

*(3) This subsection applies where–*

*(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;*

*(b) they ceased to do so before the time of the application but after the commencement of this section; and*

*(c) the application is made within [the relevant period]*

18. The application in this case is based upon subsection (2) and therefore must satisfy the relevant criteria.

19. As referred to above, the issue in this case is the phrase “as of right”. I have not been asked to comment on any other of the criteria indeed this was seem otiose as the application has already been submitted.

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<sup>4</sup> [2006] UKHL 25 at para 18 and 43

## The Deed

20. It is worth at this juncture setting out section 193 of the Law of Property Act 1925.

*(1) Members of the public shall, subject as hereinafter provided, have rights of access for air and exercise to any land which is a metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 to 1898, or **manorial waste**, or a common, which is wholly or partly situated within [an area which immediately before 1st April 1974 was] a borough or urban district, and to any land which at the commencement of this Act is subject to rights of common and to which this section may from time to time be applied in manner hereinafter provided:*

*Provided that—*

*(a) such rights of access shall be subject to any Act, scheme, or provisional order for the regulation of the land, and to any byelaw, regulation or order made thereunder or under any other statutory authority; and*

*(b) the Minister shall, on the application of any person entitled as lord of the manor or otherwise to the soil of the land, or entitled to any commonable rights affecting the land, impose such limitations on and conditions as to the exercise of the rights of access or as to the extent of the land to be affected as, in the opinion of the Minister, are necessary or desirable for preventing any estate, right or interest of a profitable or beneficial nature in, over, or affecting the land from being injuriously affected, [for conserving flora, fauna or geological or physiographical features of the land, ] or for protecting any object of historical interest and, where any such limitations or conditions are so imposed, the rights of access shall be subject thereto; and*

*(c) such rights of access shall not include any right to draw or drive upon the land a carriage, cart, caravan, truck, or other vehicle, or to camp or light any fire thereon; and*

***(d) the rights of access shall cease to apply—***

***(i) to any land over which the commonable rights are extinguished under any statutory provision;***

*(ii) to any land over which the commonable rights are otherwise extinguished if the council of the county [, county borough][or metropolitan district][...] in which the land is situated by resolution assent to its exclusion from the operation of this section, and the resolution is approved by the Minister.*

***(2) The lord of the manor or other person entitled to the soil of any land subject to rights of common may by deed, revocable or irrevocable, declare that this section shall apply to the land, and upon such deed being deposited with the Minister the land shall, so long as the deed remains operative, be land to which this section applies.***

21. The deed in this case quite clearly has been undertaken under subsection 2 above and I see no reason as to why it does not satisfy the requirement to be deposited with the Minister. There is however a number of definitions within s.193 that need to be briefly looked at in my view.

22. Manorial waste in subsection 2 has been examined in the case of *Hampshire CC v Milburn*<sup>5</sup> and as a small history lesson stated:

*“The manorial system which the Normans partly inherited and partly established displayed a variety of local laws and customs but in general there were three categories of land comprised in a manor. The demesne land belonged to the lord of the manor. The copyhold land was divided between the tenants of the lord of the manor. The remainder of the land*

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<sup>5</sup> [1991] 1 AC 325

*consisted of uncultivated land, referred to as the **waste of the manor**. The waste land was the natural source of grazing, fodder and fuel for all the inhabitants of the manor. The waste land belonged to the lord of the manor subject to the rights of the tenants to enjoy in common the fruits or some of the fruits of the soil in the manner of a 'profit à prendre.' The rights of the commoners varied from manor to manor. The extent of the right of any particular commoner depended on the origin of the right and might depend on the size and situation of land held by the commoner."*

23. There appears to be no dispute the land in question is waste of the manor.

24. Returning to section 193 subsection (d)(i) states:

*(d) the rights of access shall cease to apply—*

*(i) to any land over which the commonable rights are extinguished under any statutory provision*

25. "Commonable rights" are rights of common, which have their origin in local custom. These rights are exercisable together with, or "in common", with others. I am not of the view that for the purpose of this advice there is a dispute as to what this means.

26. Thus did the rights conferred by the deed in 1930 cease under the 1965 act?

27. In my view they did and it is simply a means of statutory interpretation.

28. Section 193 states towards the end of the first subparagraph, "*Provided that –*" and then lists four subparagraphs the latter one being divided into two.

29. As referred to above subsection d(i) states

*the right of access shall cease to apply –*

(i) *to any land over which the commonable rights are extinguished under any statutory provision.*

30. First of all it states, "*any land*" over which commonable rights are extinguished and would therefore include manorial waste land.

31. Secondly the ability to grant such rights is an express statutory right under subsection 2 where the Lord of the Manor was able by deed to declare such rights were available. In addition, that subsection gives the Lord of the Manor the ability to declare that section 193 applies by stating "***...declare that this section shall apply to the land...***". In the deed this occurs in the second clause 1. That must mean all of the section including (d)(i) and thus acknowledge, in my view, that there was a possibility that a statute may remove such granted rights.

32. In my opinion, the fact that the proviso in respect of extinguishment by statutory provision is a forward looking clause, means that quite clearly Parliament had intended that such rights could be extinguish in the future should such a statute come into force. If rights created by a deed were not to be so extinguished I would have expected a draftsman to have included a clause clearly stating those rights formed out of the deed would not be so affected by any future statutory provision – they did not. Indeed the circle completes itself by the subparagraph (d) and reference to "*any land*".<sup>6</sup>

33. Moving on; the statute that extinguished such rights is the Commons Registration Act 1965.

34. The CRA 1965 introduced a new regime for identifying common land, town and village greens and rights of common. The CRA 1965 followed the report of the Royal Commission on Common Land (1955-58), which emphasised the importance of open spaces.

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<sup>6</sup> I will return to the saving provision in the Commons Registration Act 1965 later

35. The main purpose of the CRA 1965 was to preserve and improve common land and town and village greens, some of which were in danger of being encroached upon by developers because of legal and factual uncertainties as to their status or ownership. There was also an issue that because ownership was often unclear, it was difficult to establish whose consent was needed for improvements to, or maintenance of, the land.
36. The CRA 1965 imposed a duty on county councils to maintain registers of common land and town and village greens, together with details of any rights claimed over such land and the ownership of them.
37. Registrations were required to be made under the CRA 1965 by 31 July 1970 and any objections to a registration had to be made within a further two years. A registration became final if either there was no objection or any objection was determined.
38. If land was eligible for registration, either as common land or as a town or village green, but was not registered by 31 July 1970, it ceased to be common land or a green. Rights of common that were not registered by 31 July 1970 were no longer exercisable.
39. Section 1 of the Act stated:
- (1) There shall be registered, in accordance with the provisions of this Act and subject to the exceptions mentioned therein,—*
- (a) land in England or Wales which is common land or a town or village green;*
- (b) rights of common over such land; and*
- (c) persons claiming to be or found to be owners of such land or becoming the owners thereof by virtue of this Act;*
- and no rights of common over land which is capable of being registered under this Act shall be registered [in the register of title]*

*(2) After the end of such period, not being less than three years from the commencement of this Act, as the Minister may by order determine—*

*(a) no land capable of being registered under this Act shall be deemed to be common land or a town or village green unless it is so registered; and*

*(b) no rights of common shall be exercisable over any such land unless they are registered either under this Act or [in the register of title]*

40. The Court of Appeal commented on the legislation in respect of such registration <sup>7</sup>and held that:

*“First, there can be no doubt that the 1965 Act was intended to establish a register which was definitive – see paragraph [283] of the Report of the Royal Commission and the Explanatory Notes to the Commons Act 2006, cited by Lewison LJ at paragraphs [114] and [115] respectively below. Because section 13 of the 1965 Act expressly contemplated that land could subsequent to the registration exercise envisaged by the Act become common land, whereas hitherto it had not been common land, the register could plainly not be definitive of the extent of common land. But a more modest ambition would have been to produce a register definitive of land which, as at the conclusion of the registration exercise, was at that time both capable of being registered as common land and had been registered as such, and definitive of the rights exercisable over such land as had been so registered. It seems reasonable to ascribe this ambition to Parliament, for unless the registration exercise introduced by the Act had this effect, that exercise was of dubious utility.”<sup>8</sup>*

41. The court continued;

*“Second, the natural meaning of both sub-sections of section 1 of the 1965 Act seems to me entirely in accord with this clear objective. **All land** which was at the operative date common land, and all rights of common over such*

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<sup>7</sup> R. (on the application of Littlejohns) v Devon CC [2016] EWCA Civ 446

<sup>8</sup> Ibid at 101

*land then existing, were to be registered – sub-section (1). After the operative date, land which was common land but which had not been registered as such would no longer be regarded as common land – or deemed to be such – and no rights of common which had not been registered could thenceforth be exercised over land registered as common land.”*

42. The court had previously commented that:

*“Authority indicates that they [section 1(2)] have the effect of extinguishing an existing right in the light of section 22(1) of the 1965 Act and sections 193 and 194 of the Law of Property Act 1925 : see Central Electricity Generating Board v Clwyd County Council [1976] 1 WLR 151 , esp. at 155–156, Corpus Christi College v Gloucestershire County Council [1983] 1 QB 360 , 370F; and comp. Oxfordshire County Council v Oxford City Council [2006] 2 AC 674 (a case on registration of a town or village green under the 1965 Act) at 688. That is entirely consistent with the Littlejohns' case that the purpose of section 1(2) was to require the registration of common land and rights of common as existed at (in the event) 2 January 1970 if they were to be valid and exercisable. The extinction of the previously valid rights of common was the sanction for non-registration.”<sup>9</sup>*

43. The House of Lords in the case of *Oxfordshire County Council v Oxford City Council and another*<sup>10</sup> held that:

*“On the other hand, by section 10<sup>11</sup>, the registration of land as common land or as a town or village green was to be “conclusive evidence of the matters registered, as at the date of registration”. So the register was to be definitive, both positively and negatively: registration was*

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<sup>9</sup> Para 77

<sup>10</sup> [2006] UKHL 25

<sup>11</sup> The registration under this Act of any land as common land or as a town or village green, or of any rights of common over any such land, shall be conclusive evidence of the matters registered, as at the date of registration, except where the registration is provisional only.

*conclusive evidence that on that date it was a town or village green and non-registration was conclusive evidence that it was not.”<sup>12</sup>*

44. In other words, the Act was meant to be an all-encompassing statute in respect of registration of common land and those rights over it. To have exceptions such as those rights created by deed would not have produced such a definitive register as envisaged by Parliament. As such, the rights contained in the deed over this parcel of land must have been extinguished due to the fact they were not registered by the appropriate time.

#### Saving Provision

45. As if there was any more complication needed, section 21 of the CRA states this:

*Section 1(2) of this Act shall not affect the application **to any land registered** under this Act of section 193 or section 194 of the Law of Property Act 1925 (rights of access to, and restriction on inclosure of, land over which rights of common are exercisable).*

46. The court in *Central Electric* above held that the saving provision:<sup>13</sup>

*Now section 193 (1) (d) of the Law of Property Act 1925 is a proviso that “the rights of access shall cease to apply — (i) to any land over which the commonable rights are extinguished under any statutory provision.” And section 194 (3) has a proviso that the section “shall cease to apply (a) to any land over which the rights of common are extinguished under any statutory provision.” It is to those two provisions that the saving in section 21 of the Act of 1965 is clearly directed, and the significance is that whilst section 1 (2) (b) of the Act of 1965 refers only to the rights not being*

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<sup>12</sup> *Ibid* at para 19

<sup>13</sup> [1976] 1 WLR 151 at 155/156

*exercisable, it is saved from operating under the provisions in sections 193 and 194 of the Law of Property Act 1925 which refer to the rights being extinguished; and therefore clearly the legislature was contemplating section 1 (2) (b) of the Act of 1965 as working an extinguishment. That is emphasised by the parenthesis in section 21 (1) which reads as a definition of the relevant parts of sections 193 and 194 of the Act of 1925 as follows: “rights of access to, and restriction on inclosure of, land over which rights of common are exercisable.”*

47. Thus the legislation recognised that when registering land under the CRA there is somewhat of a distinction between the land itself and rights over the land.<sup>14</sup>

48. What the saving provisions does therefore, is that if the land is registered this section preserves those rights under s.193 that accompanied it but of course the land itself has to be registered under the CRA. In this case it has not been.

49. The definition of manorial waste in the CRA is that:

*1) In this Act, unless the context otherwise requires, “common land” means—*

*(a) ...*

*(b) **waste land of a manor not subject to rights of common;***

*but does not include a town or village green or any land which forms part of a highway;*

50. The section still requires that land to be registered. In this case it was not and therefore in my view it is not so saved and remains extinguished.

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<sup>14</sup> Although not manorial waste land – see below.

*James Kemp*

**James Kemp  
Trinity Chambers  
18<sup>th</sup> June 2018**

**IN THE MATTER OF AN APPLICATION TO REGISTER LAND AT  
ROMALDKIRK, BARNARD CASTLE, COUNTY DURHAM  
AS A TOWN OR VILLAGE GREEN**

**REPORT**

**of Miss Ruth Stockley**

**08 August 2019**

**Durham County Council**

**County Hall**

**Durham**

**DH1 5UL**

**Ref: LA/015364**

**IN THE MATTER OF AN APPLICATION TO REGISTER LAND AT  
ROMALDKIRK, BARNARD CASTLE, COUNTY DURHAM  
AS A TOWN OR VILLAGE GREEN**

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**REPORT**

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**1. INTRODUCTION**

1.1 This Report relates to an Application (“the Application”) made under section 15(1) of the Commons Act 2006 (“the 2006 Act”) to register land at Romalldkirk, Barnard Castle, County Durham (“the Land”) as a town or village green. Under the 2006 Act, Durham County Council, as the Registration Authority, is required to register land as a town or village green where the relevant statutory requirements have been met. The Registration Authority instructed me to hold a non-statutory public inquiry into the Application, to consider all the evidence and submissions, and then to prepare a Report containing my findings and recommendations for consideration by the Authority.

1.2 I held such an Inquiry over 2 days, namely on 30 April and 1 May 2019. I also undertook an accompanied site visit on 1 May 2019, together with an unaccompanied visit around the village of Romalldkirk.

1.3 Prior to the Inquiry, I was invited to make directions as to the exchange of evidence and of other documents. Pursuant to my directions, those documents were duly provided to me by each of the Parties which significantly assisted my preparation for the Inquiry. The Applicants produced a bundle of documents containing the Application with supporting documents, a number of witness statements and letters in support, and other documentary evidence in support of the Application. I shall refer to that bundle as “AB \*” with \* representing the page number of the bundle. The Objectors also produced a bundle of documents containing witness statements and other documentary evidence in support of their Objection, which I shall refer to as “OB \*” with \* representing the relevant tab of the bundle together with, where appropriate, the page number. In addition, both Parties provided a skeleton argument setting out an outline of their respective cases. I have read all those documents and taken their contents into account in this Report.

1.4 I emphasise at the outset that this Report can only be a set of recommendations to the Registration Authority as I have no power to determine the Application or any substantive matters relating thereto. Therefore, provided it acted lawfully, the Registration Authority would be free to accept or to reject any of my recommendations contained in this Report.

## **2. THE APPLICATION**

2.1 The Application was made by Ms Lesley Cutting in her capacity as Chairwoman of Romaldkirk Parish Council (“the Applicants”) and is dated 11 September 2016.<sup>1</sup> It is

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<sup>1</sup> The Application is contained at AB 1 onwards.

stamped by the Registration Authority as being validly received on 20 October 2016.

Part 5 of the Application Form describes the Land sought to be registered as follows:

*“Area of land is within the registered village green known as Middle Green”*

and its location is stated to be *“Romaldkirk, Barnard Castle”*. A map was submitted with the Application marked “EXHIBIT A” which shows the Land hatched in red.<sup>2</sup> In part 6 of the Application Form, the “locality or neighbourhood within a locality” in respect of which the Application is made is identified as *“Romaldkirk, Barnard Castle”*.

2.2 The Application was made on the basis that section 15(2) of the 2006 Act applies, which provision contains the relevant qualifying criteria. The justification for the registration of the Land is set out in part 7 of the Form, and was supported by user evidence questionnaires, letters and plans.<sup>3</sup>

2.3 The Application was duly advertised by the Registration Authority as a result of which an objection was received from Mr and Mrs Webb (“the Objectors”) of Rose Stile Cottage,<sup>4</sup> Romaldkirk. The Applicants were given an opportunity to respond to that objection which they duly did.<sup>5</sup>

2.4 I have been provided with copies of all the above documents in support of and objecting to the Application which I have read and the contents of which I have taken into account in this Report.

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<sup>2</sup> At AB 8.

<sup>3</sup> At AB 9 onwards.

<sup>4</sup> I have noted various spellings of “Rose Stile Cottage”, but I have adopted the version shown in the Registered Romaldkirk Title Documents for the purposes of this Report.

<sup>5</sup> The response is at AB 39 onwards.

2.5 Having received such representations, the Registration Authority determined to arrange a non-statutory inquiry prior to determining the Application which I duly held.

2.6 At the Inquiry, the Applicants were represented by Mr James Kemp of Counsel, and the Objectors appeared in person. Any third parties who were not being called as witnesses by the Applicants or the Objectors and wished to make any representations were invited to speak, but no additional persons chose to do so.

### **3. THE APPLICATION LAND**

3.1 The Application Land is identified on the map marked “EXHIBIT A” submitted with the Application on which it is clearly outlined and hatched in red.<sup>6</sup>

3.2 The Land comprises a small, open, flat, triangular shaped, short cut grassed area within the village of Romaldkirk. It immediately adjoins the carriageway to the south which is a public highway with no separate footways. To the north are adjoining residential properties known as Rose Stile Cottage and Rose Stile bounded by a stone wall. There are gates leading out from the front garden areas of those properties directly onto the Land. To the west of the Land is Sennings Lane over which a public footpath runs that is part of the Teesdale Way. The Land is open to access. There are no benches, bins, signs or other equipment on the Land. There are a number of other open grassed areas in the village which are registered village greens. The main green is located across the road to the south west of the Land and is known as “Low Green”. The grassed area across the road to the south east of the Land is known as “Middle Green”.

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<sup>6</sup> At AB 8.

3.3 The ownership of the Land is not entirely clear. It is not within the Objectors' title relating to Rose Stile Cottage, but comprises unregistered land. It is understood by the Applicants to be owned by the Lord of the Manor of Romaldkirk and thus by the Church. That may well be, but in the absence of any clear evidence as to title, I am unable to make any findings in relation to ownership and I do not do so.

#### **4. THE EVIDENCE**

4.1 Turning to the evidence presented to the Inquiry, I record at the outset that, for the most part, each witness from both Parties presented their evidence in an open, straightforward and helpful way. Further, I regard each witness as having given credible evidence to the best of their individual recollections, taking into account the passage of time.

4.2 The evidence was not taken on oath.

4.3 The following is not an exhaustive summary of the evidence given by every witness to the Inquiry. However, it purports to set out the flavour and main points of each witness's oral evidence. I assume that copies of all the written evidence will be made available to those members of the Registration Authority determining the Application and so I shall not rehearse its contents herein. I shall refer to the oral evidence in the order in which each witness was called at the Inquiry for each Party.

#### **CASE FOR THE APPLICANTS**

##### **Oral Evidence in Support of the Application**

- 4.4 **Mrs Sarah Wall**<sup>7</sup> lives at Low Green Farm, Romaldkirk where she was born and lived between 1978 and 1996 until she went to university, and then returned to live in 2010. Whilst away at university, she regularly returned to the village at weekends and during holidays to visit her parents, friends and her horses which remained at the Farm.
- 4.5 Growing up, she spent a lot of time in the village, often riding her ponies, and she would use the Land when riding from around 1988 onwards. At times she was accompanied by Lesley Cutting on her horse, and for a period Gillian Carter who also had horses. She saw various other residents of the village using the green areas and open spaces, including the Land. People walked their dogs on the Land and children played on it. It was used in the same way as all the other open areas in the village.
- 4.6 Since returning to the village in 2010, she has married and had three children born in 2012, 2014 and 2017. She regularly walks along the road adjacent to the Land with her children playing on both the Land and the open land on the other side of the road. She recalled various Fair Days held annually in the village which are primarily based on the Low Green. That included a fancy-dress parade starting from the Reading Rooms down to the Low Green, passing the Land. People would line each side of the road to spectate, including on the Land. There were no stalls or other activities on the Land. She expressed the view that there has been little change in how people have used the Land over the years she has known it. It is used alongside the other open areas by the villagers and occasionally by visitors. Her access to the Land has never been hindered until the planting which took place which stopped her using the Land, although her children would still wander onto it.

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<sup>7</sup> Her witness statement is at AB 76, and an earlier e-mail and statement at AB 93 and AB 116.

4.7 In cross examination, she acknowledged that various still images from CCTV footage produced by the Objectors<sup>8</sup> show her walking down Sennings Lane and then turning right at the bottom towards her home and away from the Land. That is part of a regular circular dog walk she does. None of the stills produced show her using the Land, but she pointed out that the camera angle does not show the Land, which she has used with her children.

4.8 **Mrs Gillian Carter**<sup>9</sup> has lived at Romaldkirk Hall, Romaldkirk since 1985 which has also been the location of her office since 1999. Her property is around 50 metres from the Land and from which she has views of the Land. She had always understood it to be part of Romaldkirk Village Green and had used it as such. From 1985 until 2014, she regularly walked her dog around the village greens and over the Land a number of times each week. In addition, between 1985 and 1992, she regularly rode over the Land and other areas of village green with her horse, often accompanied by Lesley Cutting and sometimes by Sarah Wall. Between 2004 and 2006, she employed a personal trainer for her Son, Ivan, who was recovering from Lyme Disease. The trainer set up various activities around the open spaces in Romaldkirk, including on the Land, for hourly sessions on a twice weekly basis, dependent on the weather.

4.9 She has also seen other local residents regularly using the Land for recreational purposes over the years since 1985, including for dog walking, children's play and horse riding. In terms of dog walking on the Land, "*it would have been uncommon for*

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<sup>8</sup> At OB B.

<sup>9</sup> Her witness statement is at AB 57, and an earlier letter and statement at AB 86 and AB 103.

*a week to pass without seeing at least one or two of the local inhabitants using the land*".<sup>10</sup> As to children's play, more use occurred in holiday times and in the summer, but she witnessed that activity on the Land "*on at least a fortnightly basis*".<sup>11</sup> In addition, people used the Land for spectating and socialising during the Village Fairs and the Beamish Rally.

4.10 She joined the Parish Council around 5 years ago. In May 2016, she instigated civil proceedings against Mr Webb for the obstruction of a public right of way, namely Sennings Lane, due to his planting extending over part of that right of way. She sought the removal of planting from along Sennings Lane bordering the Land.<sup>12</sup> A Court Order was made allowing the removal of a 1.3 metre strip of the vegetation from the side of Sennings Lane to the extent shown on Map B at OB C5, but not from the front of the Land.

4.11 **Mrs Alison Walton**<sup>13</sup> has lived at The Shielling, Romaldkirk since 1999 with her husband and two children, having previously been a regular visitor to the village to visit her parents. Her children, born in 1990 and 1994, spent a lot of time playing on the greens in the village, including on the Land, together with other local children, particularly during the summer and in the holidays. She walked over the Land when walking her dog 3-5 times a week, and on most occasions saw others walking their dogs over the Land.

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<sup>10</sup> Witness Statement at paragraph 8.

<sup>11</sup> Witness Statement at paragraph 9.

<sup>12</sup> Various photographs of the planting at different times are at OB D.

<sup>13</sup> Her witness statement is at AB 47, and an earlier e-mail and statement at AB 81 and AB 101.

4.12 She acknowledged in cross examination that CCTV stills produced by the Objectors showed her walking down Sennings Lane, pointing out that it was “*impossible to access*” the Land due to the planting which had been in place for at least 4 or 5 years. Since the planting, she had stopped crossing the Land. She had always assumed the Land to be owned by the Church, which had never restricted her use. She had assumed she had its permission to use the Land.

4.13 **Miss Dinah Needham**<sup>14</sup> has lived at Rosedale, Romaldkirk since 1994. Her property is approximately 20 metres from the Land, diagonally across the road. She recalled a well-worn track across the Land leading from the road to Sennings Lane which she walked across herself to visit people in the village. She stated in cross examination: “*I use it as a footpath. I think most people do.*” She further pointed out that Mrs Webb had told her to get off the Land. She has regularly seen villagers walking over the Land, both with and without dogs. In addition, she has seen children playing on the Land, bouncing a football against the wall and cycling on it. The primary use of the Land has been for walking across and meeting friends in the village. She stated that the extensive planting in 2016 “*more or less stopped people walking across the Land*”. Prior to that, it was possible to still “*push through*” despite the planting. There was no footage of her on the CCTV images provided. However, she pointed out that they were taken over a very short period of time.

4.14 **Mr Martin Jewitt**<sup>15</sup> has lived at Gracies Farm, Romaldkirk since 1987, having previously lived at Bunker Hill, Romaldkirk. He also farms a number of parcels of land

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<sup>14</sup> Her witness statement is at AB 55.

<sup>15</sup> His witness statement is at AB 74, and an earlier statement is at AB 113.

in and around Romalldkirk, so he passes through the village up to 3 times per day. He has seen local people regularly using the Land from as long as he can remember, including for dog walking and for children playing. He saw “*one or two*” local people walking on the Land each week;<sup>16</sup> and he saw children playing on the Land “*once every couple of weeks*”.<sup>17</sup> Children played football on the main Low Green and not on the Land, but if the ball went onto the Land, they would go over to retrieve it. He recalled a bench on the Land at one time, but was unaware when it disappeared. It was used for spectating during events such as the Village Fair and the Beamish Rally. He had not used the Land himself, but has used the main Low Green. Since the planting, there had been a decline in the use of the Land.

4.15 **Lt Col Delius Singer**<sup>18</sup> moved to Beckwath, Low Green, Romalldkirk in June 2015 with his Wife and their dogs since when he has walked over the Land as part of his regular dog walking routine. He was not on the Land for long as it was not used as a destination for him. In addition, he has seen other local people walking their dogs over the Land and children playing on the Land. He had no knowledge of the Land prior to June 2015. His recollection was that the extensive planting had been removed from the Land when he moved to the village in June 2015. In cross examination, he accepted that the photographs at OB D3 indicated that the planting was only removed in June 2016, but stated that did not preclude his use of the Land. As to the CCTV footage showing himself and his Wife on Sennings Lane but not on the Land, he pointed out that the Land could not be seen from the camera angle shown, and the lack of

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<sup>16</sup> Paragraph 4 of his witness statement.

<sup>17</sup> Paragraph 5 of his witness statement.

<sup>18</sup> His witness statement is at AB 51, and an earlier letter is at AB 84.

photographs of him using the Land did not demonstrate that he did not use it. He became a Parish Councillor in late 2017.

4.16 **Mr Neville Bond**<sup>19</sup> has lived at Greenholme, Romaldkirk for 40 years. He walks through and around the village daily, both with and without dogs, taking different routes. He has walked his dogs over the Land and seen other villagers do the same. From 2000, he regularly led his granddaughter on her pony around the village for 2 or 3 years which included going over the Land. He recalled a handmade bench being on the Land, but was unaware of the dates. In cross examination, he stated that he had “*predominantly*” used the road rather than the Land, but had “*occasionally*” cut the corner off and walked across the Land. He estimated that he kept to the road 90% of the time. The recent planting prevented him from crossing the Land. He regarded the Land as owned by the Church. He has never seen any signs on the Land indicating that he could not use it.

4.17 **Mr Charles Goodall**<sup>20</sup> lived at Romaldkirk House, Romaldkirk as a child between 1982 to 1986, and was a regular visitor on at least a monthly basis for 2 to 3 days between 1986 and 2016 to visit his parents. From 2016 he became a part-time resident to care for his late mother. The Land is visible from the upstairs of his parents’ house.

4.18 As a child, he often used the Land and other areas of village green with other children to play and to ride bicycles. He recalled a bench on the Land which has since disappeared. There was never any indication that they should not be on the Land. As a

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<sup>19</sup> His witness statement is at AB 72, and an earlier letter is at AB 92.

<sup>20</sup> His witness statement is at AB 49, and an earlier e-mail at AB 82.

visitor between 1986 and 2016, he regularly walked around the village, including over the Land. Since being a part-time resident again from 2016, he uses the Land twice daily for walking his dog when he is in the area, which is around every fortnight for a couple of nights. He walks on the road whilst his dog, which is on an extended lead, goes on the Land foraging. He would only go on the Land if his dog had fouled. He has often seen others using the Land for recreational purposes, including dog walking over the Land, children playing and general socialising. He recalled local people and visitors using the Land to spectate at events such as the annual Village Fairs and the annual Beamish Rally. However, its use reduced from 2016 due to physical barriers on the Land, including parked vehicles, planting and waste bins. He has never seen any signs on the Land indicating that he could not use it.

4.19 **Mr Derek Nixon**<sup>21</sup> has lived at The Rectory, Romalldkirk since December 2012. He has been a member of Romalldkirk Parish Council since 2013 and is the Chairman of the Committee for the annual Parish Fete. As a dog owner, he has walked past and over the Land on average between one and three times each week. Mr Webb has seen him on the Land. He walked across the Land with his Son when he was delivering newspapers for 6 months in 2013. He has seen many other local people and visitors using the Land for dog walking. He recalled a group of Duke of Edinburgh girls from Barnard Castle School having their lunch on the Land on one occasion. Local people stand on the Land to view the cars on the annual Beamish Rally in June and to watch the fancy dress parade on the Parish Fete day. In cross examination he acknowledged that the Objectors' photographs at OB D13 taken during the Beamish Rally only showed the Objectors' family using the Land, but pointed out it was only a snapshot in time.

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<sup>21</sup> His witness statement is at AB 50.

- 4.20 **Mrs Joanne Nixon**<sup>22</sup> has lived at The Rectory, Romaldkirk since December 2012. Since May 2017, she has been Clerk to Romaldkirk Parish Council and is a member of the Reading Room Committee. She has walked past and over the Land around one to three times a week since moving into the village in 2012. Sometimes she would walk on the Land and sometimes she would walk on the road. It would depend on the weather conditions. She tended to walk on the road when walking her dog which would run onto the Land. Over that period, she has witnessed many local residents using the Land. She could only recall seeing children being on the Land over the last 3 years. It is used by people to spectate during the Beamish Rally and the Parish Fete day.
- 4.21 **Mrs Lesley Cutting**<sup>23</sup> has been the Chairwoman of Romaldkirk Parish Council for around 3 years and has lived at Balbaride, Romaldkirk since 1976. She has been a member of the Parish Council since 1998, of the Reading Rooms Management Committee since 1989, and of the Parish Fair Committee since 1987.
- 4.22 She has used the Land for recreational activities from 1980 onwards. In particular, she has regularly walked her dog around and over the Land, and between 1978 and 2010, she regularly rode in the area including over the Land. From 2013 until 2016, she also walked a horse around the open areas, including over the Land. The Land was used as part of Romaldkirk's Parish Fair held annually in August for people to spectate on and socialise. She has seen many local villagers using the Land for activities including dog walking, horse riding, children's play and spectating at events. She recalled a bench

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<sup>22</sup> Her witness statement is at AB 68 and an earlier letter at AB 88.

<sup>23</sup> Her witness statement is at AB 78, and an earlier letter and statement at AB 89 and AB 11.

being on the Land. The most regular and constant use she has witnessed on the Land is dog walking.<sup>24</sup> The population of Romaldkirk is approximately 150 inhabitants.

4.23 **Mr Ivan Carter-Becker**<sup>25</sup> has lived at Romaldkirk Hall, Romaldkirk since his birth in 1989. His company's office where he works is also located there. He recalls regularly using the Land with his friends as part of an informal bike track from around 1996 until 2000/2001 and being "told off" by the late Mr Bowen-Jones, the then owner of Rose Stile, for riding their bikes on the village green. Children's play generally took place on the larger Low Green,<sup>26</sup> but the Land would be used for certain games or when Low Green was being used by others and unavailable. The Land was also used as part of a dog walking route. Between 1999 and 2014, he regularly used the Land for dog walking. In addition, between 2004 and 2006 when he was recovering from Lyme Disease, his personal trainer set up circuit training around the open areas in the village, including on the Land. He also used the Land thereafter until around 2015 as part of a warm down or cool down circuit when running. He has witnessed the Land being used during village events for spectating. He has never been prevented from using the Land and there have been no signs on the Land indicating it should not be used.

### **Written Evidence in Support of the Application**

4.24 In addition to the evidence of witnesses who appeared at the Inquiry, I have also considered and had regard to all the written evidence submitted in support of the Application in the form of additional witness statements, letters, e-mails, photographs and other documents. However, whilst the Registration Authority must also take into

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<sup>24</sup> Paragraph 7 of witness statement.

<sup>25</sup> His witness statement is at AB 60, and an earlier statement at AB 105.

<sup>26</sup> Witness statement at paragraph 6.

account all such written evidence, I and the Authority must bear in mind that it has not been tested by cross examination. Hence, particularly where it is in conflict with oral evidence given to the Inquiry, I have attributed such evidence less weight as it was not subject to such cross examination.

## **CASE FOR THE OBJECTORS**

### **Oral Evidence Objecting to the Application**

4.25 **Mr Ian Bark**<sup>27</sup> resides in Sunderland where he has lived for 70 years, but he has family connections with Romaldkirk. His Wife's family have resided there since around 1958. They previously owned Hall Cottage, the property next door to Rosestile Cottage, and currently own The Gatehouse, Romaldkirk, which is at the opposite side of the village to the Land. He was married at Hall Cottage in 1973. Between 2005 and 2007, his Wife lived permanently at The Gatehouse with their Son while he attended Barnard Castle School. His Son is married to the Objectors' Daughter.

4.26 He visited Romaldkirk approximately weekly between 1996 and 2016, particularly at weekends and during school holidays, but never saw anyone on the Land. He had never seen anyone using the Land other than the families residing at Rose Stile and Rose Stile Cottage who also maintained the Land as part of the frontage to their property. It had always been regarded as part of those properties and was respected as such. He had a dog, but he never used the Land for dog walking as he respected other people's property. He had seen horses on Middle Green, but not on the Land. He had not seen children playing there. He attended the annual fireworks event every year, and went to see the Fairs and the Beamish Rally.

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<sup>27</sup> His witness statement is at OB A12.

4.27 **Mrs Evangeline Bark**<sup>28</sup> was born in 1994 and currently resides in Durham. She is the Daughter of the Objectors. She lived at Rose Stile Cottage from March 1998 when her family moved to Romaldkirk until 2013 when she left the village and went to live in Durham. She often visits her parents with her Son.

4.28 As a child growing up, she would play with her cousins on the village greens, usually Low Green which was near to her house. They would also play on the Land when their gate was open. Although she had horses, she never rode them on the Land. There was a laburnum tree overhanging the Land for a considerable period of time which was too low to ride a horse. It is shown on the aerial photographs dated 1993<sup>29</sup> and 2010.<sup>30</sup> It was removed by Mr Bowen-Jones. She never saw anyone using the Land with horses. Mr Bowen-Jones would not have been happy if horses had used it causing ruts in the ground. There was no reason for people to use the Land for recreational activities given the two larger greens close by. Her Mother did not like a lot of people being on the Land given her mental health concerns.

4.29 She recalled the fireworks and bonfire on Low Green. Only their own family and friends stood on the Land during such events and during the Village Fairs. Only the main greens were used for the Fairs. There were no stalls or activity on the Land. The parade passed along the road in front of her parents' property, and she would watch from the Land if she was not participating in the parade. It was less than a 10 minute walk from the Reading Rooms to the Kirk Inn where the judging took place. Other

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<sup>28</sup> Her witness statement is at OB A8.

<sup>29</sup> At OB C1

<sup>30</sup> At OB C3.

people did not stand on the Land. The annual Beamish Rally was another popular event for her family and friends. They would put seating out on the Land as shown on the 2016 photograph.<sup>31</sup> No one else used the Land, as shown by the photographs. The area in front of houses was always respected by other villagers. There were no signs on the Land to state that people could not use it.

4.30 The Land was maintained by the gardener of the late Mr Bowen-Jones, who died around 2015, and her parents. It was always kept very neat and tidy. Mr Bowen-Jones always regarded it as private. He told children off when they rode on it. From around 2005, her Father started building work on Rose Stile Cottage, and for a number of years the Land was used to store a range of building supplies, including bags of sand and ballast, pallets of stone blocks, roofing slates, plasterboards and timber. No one walked over the Land. There was no issue over the Land until 2016.

4.31 **Mr Christopher Bark**<sup>32</sup> was born in 1991 and currently resides in Durham. His parents live at The Gatehouse, Romalldkirk. He only lived permanently in Romalldkirk between late 2004 and 2007. Prior to then, he lived in Sunderland, and post then, he boarded at Barnard Castle School. He recalled playing with children from the village after school and at weekends on Low Green and Middle Green. Low Green was used quite a lot, especially during the summer months. It was fairly regularly used for dog walking. He never saw anyone using the Land other than the families of Rose Stile and Rose Stile Cottage. He came to know Mr Bowen-Jones. If he and his friends kicked a ball close to the Land, he would tell them off. He acknowledged in cross examination that post 2007,

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<sup>31</sup> At OB D13.

<sup>32</sup> His witness statement is at OB A10.

his visits to Romaldkirk were sporadic. He would stay at The Gatehouse outside term times. The Land could only be seen from the kitchen of that property.

4.32 **Mrs Fay Ryves-Webb**<sup>33</sup> has resided at Rose Stile Cottage since moving to Romaldkirk in March 1998 with her Husband and Daughter. She is the joint owner. She did not recall the details of the area of land they purchased at the front of the property. In 2012, they took out further finance on the property. She now accepts that they do not own the Land, but its ownership was never an issue. She only became aware that they did not own the Land when the Application was made.

4.33 When the children were younger, they played on the Land, but she could not cope with the noise from other children due to her mental health problems. Other than family members, she did not like other children in the house or in the garden or on the Land. She was at home daily, and has always spent a considerable amount of time in the garden. She is outside the majority of the time. She was constantly going backward and forward between the front and back parts of the house and was in and out of the front garden. She loves gardening and it forms part of her therapy. She has always maintained the Land and has planted on the Land, often making changes, as shown on the photographs.<sup>34</sup> She has done so openly and without challenge until recently. There had never been an issue with the planting or with anyone coming onto the Land. It was simply not used. She often observed people using the road, but not the Land. Until recently, she had not seen any other resident of Romaldkirk on the Land. Recently, they have become involved in a personal dispute with Romaldkirk Parish Council which is

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<sup>33</sup> Her witness statement is at OB A4.

<sup>34</sup> At OB D.

when the Land became an issue. The police have been involved. Once the planting was removed in 2016, people started to use the Land.

4.34 The family attended every Romaldkirk Fair until 2013. They watched the parades go by from the Land. Her children were often participating. There were no activities on the Land or use of the Land by anyone during those Fair Days other than themselves. Between 2005 and 2014, they embarked on extensive building renovations. It was necessary to store building materials on the Land due to insufficient storage and the need for access for larger vehicles to the rear of the house. They never had issues with dog fouling on the Land, in contrast to Sennings Lane where it is a major problem.

4.35 **Mr Murray Webb**<sup>35</sup> has resided at Rose Stile Cottage since 1998 when he moved to Romaldkirk with his family. When he purchased the property with his Wife in 1998, the Land was not included on the title deeds, and he was unaware who it belonged to. He remains unaware of the identity of the current owner. It is unregistered land. At that time, he was informed by his neighbour, the late Professor Howard Bowen-Jones, the past Chairman of Romaldkirk Parish Council, that he had maintained the Land and he was happy to share its maintenance with them. They have maintained the Land ever since and have never been challenged by the Church or the Parish Council.

4.36 In maintaining the Land since 1998, they have weeded, fed and mown the grass, treating the Land as their own. Around 2006, he and his Wife planted along the border of the Land with Sennings Lane. He was not approached by the Church or the Parish Council.

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<sup>35</sup> His witness statement is at OB A1.

He produced a number of photographs<sup>36</sup> showing the extent of the planting at different times up until June 2016 when it was removed by Mrs Carter. From around 2009, planting along the border with Sennings Lane ran from the wall to the public right of way. It was some 1.3 metres in width. He installed CCTV upon advice from the Police after the poisoning of their plants in March 2012. There is one camera at the side over Sennings Lane and one at the front just below the gutter. The one at the front does not show the grassed area on the Land itself, but it does show individuals walking in that area. He acknowledged in cross examination that he had not disclosed the tapes in their entirety, and that the CCTV evidence produced did not show his Wife on the Land. Moreover, many of the stills produced relate to a date outside the relevant 20 year period.

4.37 From 2005, he started building work on the property. The Land was used to store different building materials at different times including packs of blocks, pallets of stone, large bags of sand and ballast, packs of insulation, roofing slates and plasterboard for a number of years due to the lack of storage space. It would have been difficult to use during that time. He referred to a photograph obtained from a Google image dated approximately 2006 showing some pallets stored on the Land.<sup>37</sup> Whilst undertaking those works, he never saw anyone on the Land. He never saw anyone on the Land when he was at home and the CCTV footage did not show anyone using the Land. In contrast, since 2016, they have started to see people using the Land.

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<sup>36</sup> At OB D.

<sup>37</sup> At OB D5.

4.38 He referred to a Deed dated 4 September 1930<sup>38</sup> by which the Lord of the Manor of Romalldkirk gave permission to the public to have access over a number of parcels of land, including the Land. As that permission had never been revoked, he expressed the view that it still exists and so the public's use of the Land has been with permission and so not "as of right".

### **Written Evidence Objecting to the Application**

4.39 In addition to the evidence of witnesses who appeared at the Inquiry, I have also considered and had regard to all the written evidence submitted in support of the Objection to the Application in the form of additional written statements, photographs and other documents which are contained in the Objectors' Bundle. In relation to such written evidence, I refer to and repeat my observations in paragraph 4.24 above that whilst such written evidence must be taken into account, I and the Registration Authority must bear in mind that it has not been tested by cross examination. Hence, particularly where it is in conflict with any oral evidence given to the Inquiry, I have attributed such evidence less weight as it was not subject to cross examination.

### **THIRD PARTY EVIDENCE**

4.40 During the Inquiry, I invited any other persons who wished to give evidence to do so. There were no such other persons who gave additional evidence.

## **5. THE LEGAL FRAMEWORK**

5.1 I set out below the relevant general legal framework within which I have to form my conclusions and the Registration Authority has to reach its decision. I shall then proceed

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<sup>38</sup> At OB E1.

to apply the legal position to the facts I find based on the evidence that has been adduced as set out above.

### **Commons Act 2006**

5.2 The Application was made pursuant to the Commons Act 2006. That Act requires each registration authority to maintain a register of town and village greens within its area. Section 15 provides for the registration of land as a town or village green where the relevant statutory criteria are established in relation to such land.

5.3 The Application seeks the registration of the Land by virtue of the operation of section 15(2) of the 2006 Act. Under that provision, land is to be registered as a town or village green where:-

- “(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and*
- (b) they continue to do so at the time of the application.”*

5.4 Therefore, for the Application to succeed, it must be established that:-

- (i) the Application Land comprises “land” within the meaning of the 2006 Act;
- (ii) the Land has been used for lawful sports and pastimes;
- (iii) such use has been for a period of not less than 20 years;
- (iv) such use has been by a significant number of the inhabitants of a locality or of a neighbourhood within a locality;
- (v) such use has been as of right; and

(vi) such use continued at the time of the Application.

### **Burden and Standard of Proof**

5.5 The burden of proving that the Land has become a village green rests with the Applicants. The standard of proof is the balance of probabilities. That is the approach I have used.

5.6 Further, when considering whether or not the Applicants have discharged the evidential burden of proving that the Land has become a town or village green, it is important to have regard to the guidance given by Lord Bingham in ***R. v Sunderland City Council ex parte Beresford***<sup>39</sup> where, at paragraph 2, he noted as follows:-

*“As Pill LJ. rightly pointed out in R v Suffolk County Council ex parte Steed (1996) 75 P&CR 102, 111 “it is no trivial matter for a landowner to have land, whether in public or private ownership, registered as a town green ...”. It is accordingly necessary that all ingredients of this definition should be met before land is registered, and decision makers must consider carefully whether the land in question has been used by inhabitants of a locality for indulgence in what are properly to be regarded as lawful sports and pastimes and whether the temporal limit of 20 years’ indulgence or more is met.”*

Hence, all the elements required to establish that land has become a town or village green must be properly and strictly proved by an applicant on a balance of probabilities.

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<sup>39</sup> [2004] 1 AC 889. Although ***Beresford*** was overruled by ***R. (on the application of Barkas) v. North Yorkshire County Council Barkas*** [2014] 3 All ER 178, it was not done so on this point which remains good law.

## Statutory Criteria

5.7 Caselaw has provided helpful rulings and guidance on the various elements of the statutory criteria required to be established for land to be registered as a town or village green which I shall refer to below.

## Land

5.8 Any land that is registered as a village green must be clearly defined so that it is clear what area of land is subject to the rights that flow from village green registration.

5.9 However, it was stated by way of *obiter dictum* by the majority of the House of Lords in *Oxfordshire County Council v. Oxford City Council*<sup>40</sup> that there is no requirement that a piece of land must have any particular characteristics consistent with the concept of a village green in order to be registered.

## Lawful Sports and Pastimes

5.10 It was made clear in *R. v. Oxfordshire County Council ex parte Sunningwell Parish Council*<sup>41</sup> that “*lawful sports and pastimes*” is a composite expression and so it is sufficient for a use to be either a lawful sport or a lawful pastime. Moreover, it includes present day sports and pastimes and the activities can be informal in nature. Hence, it includes recreational walking, with or without dogs, and children’s play.

5.11 However, that element does not include walking of such a character as would give rise to a presumption of dedication as a public right of way. In *R. (Laing Homes Limited)*

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<sup>40</sup> [2006] 2 AC 674 per Lord Hoffmann at paragraphs 37 to 39.

<sup>41</sup> [2000] 1 AC 335 at 356F to 357E.

**v. Buckinghamshire County Council**<sup>42</sup>, Sullivan J. (as he then was) noted at paragraph 102 that:-

*“it is important to distinguish between use which would suggest to a reasonable landowner that the users believed they were exercising a public right of way – to walk, with or without dogs, around the perimeter of his fields – and use which would suggest to such a landowner that the users believed that they were exercising a right to indulge in lawful sports and pastimes across the whole of his fields.”*

5.12 Moreover, Lightman J. at first instance in **Oxfordshire County Council v. Oxford City Council**<sup>43</sup> stated at paragraph 102:-

*“Recreational walking upon a defined track may or may not appear to the owner as referable to the exercise of a public right of way or a right to enjoy a lawful sport or pastime depending upon the context in which the exercise takes place, which includes the character of the land and the season of the year. Use of a track merely as an access to a potential green will ordinarily be referable only to exercise of a public right of way to the green. But walking a dog, jogging or pushing a pram on a defined track which is situated on or traverses the potential green may be recreational use of land as a green and part of the total such recreational use, if the use in all the circumstances is such as to suggest to a reasonable landowner the exercise of a right to indulge in lawful sports and pastimes across the whole of his land. If the position is ambiguous, the inference*

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<sup>42</sup> [2003] EWHC 1578 (Admin).

<sup>43</sup> [2004] Ch. 253.

*should generally be drawn of exercise of the less onerous right (the public right of way) rather than the more onerous (the right to use as a green)."*

He went on at paragraph 103 to state:-

*"The critical question must be how the matter would have appeared to a reasonable landowner observing the user made of his land, and in particular whether the user of tracks would have appeared to be referable to use as a public footpath, user for recreational activities or both. Where the track has two distinct access points and the track leads from one to the other and the users merely use the track to get from one of the points to the other or where there is a track to a cul-de-sac leading to, e g, an attractive view point, user confined to the track may readily be regarded as referable to user as a public highway alone. The situation is different if the users of the track, e g, fly kites or veer off the track and play, or meander leisurely over and enjoy the land on either side. Such user is more particularly referable to use as a green. In summary it is necessary to look at the user as a whole and decide adopting a common-sense approach to what (if any claim) it is referable and whether it is sufficiently substantial and long standing to give rise to such right or rights."*

The Court of Appeal and the House of Lords declined to rule on the issue since it was so much a matter of fact in applying the statutory test. However, neither the Court of Appeal nor the House of Lords expressed any disagreement with the above views advanced by Lightman J.

### **Continuity and Sufficiency of Use over 20 Year Period**

5.13 The qualifying use for lawful sports and pastimes must be continuous throughout the relevant 20 year period: *Hollins v. Verney*.<sup>44</sup>

5.14 Further, the use has to be of such a nature and frequency as to show the landowner that a right is being asserted and it must be more than sporadic intrusion onto the land. It must give the landowner the appearance that rights of a continuous nature are being asserted. The fundamental issue is to assess how the matters would have appeared to the landowner: *R. (on the application of Lewis) v. Redcar and Cleveland Borough Council*.<sup>45</sup>

#### **Locality or Neighbourhood within a Locality**

5.15 A “locality” must be a division of the County known to the law, such as a borough, parish or manor: *MoD v Wiltshire CC*;<sup>46</sup> *R. (on the application of Cheltenham Builders Limited) v. South Gloucestershire DC*;<sup>47</sup> and *R. (Laing Homes Limited) v. Buckinghamshire CC*.<sup>48</sup> A locality cannot be created simply by drawing a line on a plan: *Cheltenham Builders* case.<sup>49</sup>

5.16 In contrast, a “neighbourhood” need not be a recognised administrative unit. Lord Hoffmann pointed out in *Oxfordshire County Council v. Oxford City Council*<sup>50</sup> that the statutory criteria of “any neighbourhood within a locality” is “obviously drafted with a deliberate imprecision which contrasts with the insistence of the old law upon a

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<sup>44</sup> (1884) 13 QBD 304.

<sup>45</sup> [2010] UKSC 11 at paragraph 36.

<sup>46</sup> [1995] 4 All ER 931 at page 937b-e.

<sup>47</sup> [2003] EWHC 2803 (Admin) at paragraphs 72 to 84.

<sup>48</sup> [2003] EWHC 1578 (Admin) at paragraph 133.

<sup>49</sup> At paragraphs 41 to 48.

<sup>50</sup> [2006] 2 AC 674 at paragraph 27.

*locality defined by legally significant boundaries*". Hence, a housing estate can be a neighbourhood: **R. (McAlpine) v. Staffordshire County Council**.<sup>51</sup> Nonetheless, a neighbourhood cannot be any area drawn on a map. Instead, it must be an area which has a sufficient degree of cohesiveness: **Cheltenham Builders** case.<sup>52</sup>

5.17 Further clarity was provided on that element by HHJ Waksman QC in **R. (Oxfordshire and Buckinghamshire Mental Health NHS Foundation Trust and Oxford Radcliffe Hospitals NHS Trust) v. Oxfordshire County Council**<sup>53</sup> who stated:-

*"While Lord Hoffmann said that the expression was drafted with "deliberate imprecision", that was to be contrasted with the locality whose boundaries had to be "legally significant". See paragraph 27 of his judgment in Oxfordshire (supra). He was not there saying that a neighbourhood need have no boundaries at all. The factors to be considered when determining whether a purported neighbourhood qualifies are undoubtedly looser and more varied than those relating to locality... but, as Sullivan J stated in R (Cheltenham Builders) Ltd v South Gloucestershire Council [2004] JPL 975 at paragraph 85, a neighbourhood must have a sufficient degree of (pre-existing) cohesiveness. To qualify therefore, it must be capable of meaningful description in some way. This is now emphasised by the fact that under the Commons Registration (England) Regulations 2008 the entry on the register of a new TVG will specify the locality or neighbourhood referred to in the application."*

## **Significant Number**

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<sup>51</sup> [2002] EWHC 76 (Admin).

<sup>52</sup> At paragraph 85.

<sup>53</sup> [2010] EWHC 530 (Admin) at paragraph 79.

5.18 “*Significant*” does not mean considerable or substantial. What matters is that the number of people using the land in question has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers: ***R. (McAlpine) v. Staffordshire County Council***.<sup>54</sup>

### **As of Right**

5.19 Use of land “*as of right*” is a use without force, without secrecy and without permission, namely *nec vi nec clam nec precario*. It was made clear in ***R. v. Oxfordshire County Council ex parte Sunningwell Parish Council***<sup>55</sup> that the issue does not turn on the subjective intention, knowledge or belief of users of the land.

5.20 “Force” does not merely refer to physical force. User is *vi* and so not “*as of right*” if it involves climbing or breaking down fences or gates or if it is under protest from the landowner: ***Newnham v. Willison***.<sup>56</sup> Further, Lord Rodger in ***Lewis v. Redcar*** stated that “*If the use continues despite the neighbour’s protests and attempts to interrupt it, it is treated as being vi...user is only peaceable (nec vi) if it is neither violent nor contentious*”.<sup>57</sup>

5.21 “Permission” can be expressly given or can be implied from the landowner’s conduct.

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<sup>54</sup> [2002] EWHC 76 (Admin) at paragraph 71.

<sup>55</sup> [2000] 1 AC 335.

<sup>56</sup> (1988) 56 P. & C.R. 8.

<sup>57</sup> At paragraphs 88-90.

5.22 Further, land that is used “by right” is being used with permission and so is not being used “as of right”: *R. (on the application of Barkas) v. North Yorkshire County Council*.<sup>58</sup>

## **6. APPLICATION OF THE LAW TO THE FACTS**

### **Approach to the Evidence**

6.1 I have considered all the evidence put before the Inquiry, both orally and in writing. I emphasise that my findings and recommendations are based upon whether the Land should be registered as a town or village green by virtue of the relevant statutory criteria being satisfied. In determining that issue, it is inappropriate for me or the Registration Authority to take into account the merits of the Land being registered as a town or village green or of it not being so registered.

6.2 I shall now consider each of the elements of the relevant statutory criteria in turn as set out in paragraph 5.4 above, and determine whether they have been established on the basis of all the evidence, applying the facts to the general legal framework set out above and to other specific legal principles where relevant. The facts and findings I refer to below are all based upon the evidence set out in detail above. In order for the Land to be registered as a town or village green, each of the relevant statutory criteria must be established by the Applicants on the evidence adduced on the balance of probabilities.

### **The Land**

6.3 The relevant land sought to be registered is clear. The Application Land is identified on the map marked “EXHIBIT A” submitted with the Application on which it is outlined

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<sup>58</sup> [2014] 3 All ER 178.

and hatched in red.<sup>59</sup> The Land has clearly defined and fixed boundaries, and there was no dispute at the Inquiry nor in any of the evidence adduced that that area of land comprises “land” within the meaning of section 15(2) of the 2006 Act and is capable of registration as a town or village green in principle and I so find.

### **Relevant 20 Year Period**

6.4 As to the identification of the relevant 20 year period for the purposes of section 15(2) of the 2006 Act, the qualifying use must continue up until the date of the Application. Hence, the relevant 20 year period is the period of 20 years which ends at the date of the Application. The Application Form is dated 11 September 2016, the accompanying statutory declaration is dated 12 September 2016, and the date of receipt of the Application by the Registration Authority is 20 October 2016. It follows that the relevant 20 year period for the purposes of section 15(2) is October 1996 until October 2016.

### **Locality or Neighbourhood within a Locality**

6.5 Turning next to the identity of the relevant locality or neighbourhood within a locality for the purposes of section 15(2), the Application Form in part 6 refers to the locality or neighbourhood within a locality relied upon as “Romaldkirk, Barnard Castle”. A plan of the village of Romaldkirk was provided by the Applicants.<sup>60</sup> At the Inquiry, it was confirmed that the Applicants relied upon the locality of Romaldkirk, rather than on a neighbourhood.

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<sup>59</sup> At AB 8.

<sup>60</sup> At AB 44.

6.6 Romaldkirk is a village and a parish. As such, it is a recognised and established administrative area with fixed and identifiable boundaries, namely the Parish Council boundaries, and is an area known to the law. There was no dispute at the Inquiry that Romaldkirk amounts to a locality. Consequently, I find that Romaldkirk is a qualifying locality for the purposes of section 15(2) of the 2006 Act.

### **Use of Land for Lawful Sports and Pastimes**

6.7 The next issue I turn to is whether the Land has been used for lawful sports and pastimes during the relevant 20 year period. I shall subsequently address the extent of any such use found, which is the primary disputed issue between the Parties and upon which the evidence at the Inquiry focused.

6.8 I heard evidence from each of the witnesses called in support of the Application of their own and their family's recreational use of the Land and of seeing others using the Land for recreational purposes to varying extents and over varying periods of time. Such is supported by the written evidence in support of the Application. References were made in particular to using the Land for dog walking, general walking, horse riding, children's play, spectating during community events and general socialising. As against that, I heard evidence from each of the witnesses called in support of the Objection that they had not seen anyone using the Land for any recreational purposes other than their own family and friends until the removal of the planting in June 2016.

6.9 Having considered all the evidence, it is my view that the Land has been used for some recreational activities by local inhabitants of Romaldkirk during the relevant 20 year period. I so find for the following reasons.

6.10 Firstly, although people's recollections may fade over time, particularly in relation to details, I accept the evidence of witnesses that they did in fact use the Land to some extent, and saw it being used, for the stated recreational purposes. Having heard the witnesses give evidence, which was subject to cross examination, I do not find that they were being untruthful or mistaken over the very fact that they had used the Land.

6.11 Equally, I accept the evidence of witnesses on behalf of the Objectors that they had not seen the Land being so used. However, those witnesses could only give evidence of times when they were in the vicinity and aware of what was taking place on the Land. It may well have been used at other times. I shall return to that evidence, though, in relation to the extent of the use. Similarly, I have taken account of the CCTV evidence produced by Mr Webb which does not show any use of the Land. However, the same point applies that those particular images are, and can only be, snapshots in time. That is demonstrated by the lack of any images of Mrs Webb being on the Land when her evidence is that she often was, and by the lack of any images of people using the Land from June 2016 onwards, which the Objectors acknowledge occurred.

6.12 Further, the very nature and location of the Land is such that it is unsurprising that it has been used for some recreational purposes by local residents. It comprises a flat, open, grassed and well maintained area located within the residential area comprising the village of Romaldkirk. Further, it immediately bounds the public highway on two sides, namely the road to the south and the public footpath along Sennings Lane to the west. There has been easy and unrestricted pedestrian access to it, save at times when it has been heavily planted which I shall return to later. Given such circumstances, I

would expect the Land to have been used for some recreational purposes by local people.

6.13 Moreover, I note the evidence in support of the Objection that the Objectors and their family and friends have used the Land for recreational activities from time to time. As they are not the owners of the Land and are local inhabitants of Romaldekirk, their use is properly regarded as part of the qualifying use. Further, it is acknowledged that the Land has been used post June 2016 by local residents, which is within the relevant 20 year period.

6.14 All such activities referred to in paragraph 6.8 above are lawful recreational pursuits in principle. There was no evidence of any formal activities or community events taking place on the Land. Nonetheless, the use of the Land for informal activities of the nature described are sufficient to demonstrate that some lawful sports and pastimes have taken place on the Land in the relevant 20 year period within the meaning of section 15(2) of the 2006 Act, and I so find.

**Use of Land for Lawful Sports and Pastimes by a Significant Number of the Inhabitants of the Locality for at least 20 Years**

6.15 The next issue I turn to is whether the Land has been used by a significant number of the inhabitants of the locality for lawful sports and pastimes throughout the relevant 20 year period from October 1996 until October 2016. The fundamental question to determine is whether the qualifying recreational use has been carried out to a sufficient extent and frequency throughout that relevant 20 year period to demonstrate to a

reasonable landowner the assertion of recreational rights over the Land by the local community.

6.16 In order to address that issue and ascertain the extent of the use, it is necessary to discount any non-qualifying uses. Hence, I have discounted specific uses which have taken place outside the relevant 20 year period, either prior to October 1996 or post October 2016. In doing so, I acknowledge that such uses are nonetheless relevant to the overall context of the determination and to whether or not the use is likely to have continued, or to have been previously carried out, within that period. I have taken that approach to my consideration of the evidence.

6.17 In addition, I have discounted the use from those who lived outside the locality of Romaldkirk. Although individuals may have used the Land whilst visiting family or friends, their use cannot be taken into account if they themselves lived outside Romaldkirk at the time of such use.

6.18 Turning to the evidence, it seems to me from the evidence in support of the Application that the primary use of the Land has been for dog walking. That was the most frequent use referred to by those witnesses, both as having been undertaken by themselves and as having seen others so use the Land. Further, Mrs Cutting, the Chairwoman of the Parish Council who completed the Application Form on the Applicants' behalf and who has lived in Romaldkirk since 1976, confirmed that dog walking was the most regular and constant use she has witnessed on the Land. I also note that the Applicants' Closing Submissions identified dog walking as being the predominant use of the Land.

6.19 Moreover, it seems to me from the evidence in support of the Application that the nature of the use of the Land for dog walking was very similar by the various users, namely to simply walk across it as part of a longer walking route. Hence, for example, Mrs Carter walked with her dog “*over*” the Land in contrast to walking around the village greens;<sup>61</sup> and Mrs Walton similarly walked her dog “*over*” the Land whereas she walked around the village greens.<sup>62</sup> Indeed, all the evidence of dog walking on the Land consistently indicated that the Land was walked over as part of a longer dog walking route. Significantly, no witness gave evidence that they had used the Land as a destination for dog walking. There was no evidence of anyone going to the Land to walk their dog round the edge of it a few times, or of throwing a ball for their dog on the Land, or otherwise exercising their dog on the Land for any period of time other than to walk across it to continue their walk. Lt Col Singer’s use reflected that of others, who stated that he walked over the Land as part of his regular dog walking routine. He was not on the Land for long as it was not used as a destination. That seems to me to have been the pattern of use of the Land by dog walkers. Indeed, it would be surprising if the position was otherwise given the size of the Land which is too small for any extensive dog walking to take place on it.

6.20 Further, the impression I gained from the evidence of witnesses in relation to dog walking on the Land was that in a number of instances the user walked on the road whilst the dog wandered off onto the Land in the course of the walk. In that regard, it is necessary to treat with some caution the written evidence that the Land has been used for dog walking. Mr Goodall in his oral evidence explained that he walked on the road

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<sup>61</sup> Witness statement at paragraph 4 at AB57.

<sup>62</sup> Witness statement at paragraph 4 at AB47.

whilst his dog, on an extended lead, went on the Land foraging. Mr Goodall would only go on the Land himself if his dog had fouled. Similarly, Mrs Nixon confirmed in her oral evidence that she tended to walk on the road when walking her dog which would run onto the Land. Mr Bond, having stated that he used the Land for walking, both with and without dogs, pointed out in cross examination that he “*predominantly*” walked on the road rather than the Land itself, but he “*occasionally*” cut the corner off and walked across the Land. He estimated that he kept to the road 90% of the time.

6.21 In addition, it seems to me from the evidence that the use of the Land for dog walking, despite being the primary recreational use of the Land, was nonetheless relatively limited. Firstly, it was limited in terms of the very short period of time users would spend on the Land in the course of crossing it as referred to above.

6.22 Secondly, I note the evidence of Mr Jewitt, who passes through the village a number of times a day and has lived in Romaldkirk throughout, and indeed for much longer than, the relevant 20 year period, that he saw “*one or two*” local people walking on the Land each week. Similarly, Mrs Carter, who has lived in close proximity to the Land since 1985, pointed out that in terms of dog walking on the Land, “*it would have been uncommon for a week to pass without seeing at least one or two of the local inhabitants using the land*”.

6.23 Thirdly, such evidence of the extent of the primary use of the Land being in the order of one or two individuals each week being seen who, from the evidence, would have generally been on the Land for no more than a minute whilst they crossed it, is consistent with the evidence in support of the Objection that such use was not apparent.

The Objector, Mrs Webb, whom I found to be a particularly credible witness and whose evidence I accept, indicated that she spends a considerable amount of her time at home and particularly outside in the garden given her love of gardening. Indeed, her pride in her garden and in her maintenance of the Land was apparent and supported by the various photographs of the planting produced. She was adamant that she had not seen anyone use the Land for recreational purposes until the planting was removed in 2016. That further suggests that even the primary use of the Land was very limited.

6.24 Moreover, many of the above matters are reflected in the evidence in relation to the use of the Land for walking without dogs. It is apparent to me from such evidence that the Land was walked across from time to time as a short cut and/or as part of a longer route. There was a distinct lack of any evidence that the Land was used as a destination by any walkers to walk around or to spend time experiencing its amenity. Indeed, Miss Needham's evidence, which I accept, was particularly notable. She recalled a worn track across the Land leading from the road to Sennings Lane which she walked across herself to visit people in the village stating: "*I use it as a footpath. I think most people do.*" No such track was apparent on the Land during my site visit. Nonetheless, that use of the Land, effectively as a short cut to "cut the corner", was also expressly referred to by Mr Bond, who stated he occasionally walked across the Land to cut the corner. Again, the very nature of the Land and its location in relation to Sennings Lane is such that it would be expected that people would walk over it from time to time simply to cut that corner.

6.25 In the light of the above, it is my view that some of the use of the Land for walking and dog walking was more akin to the exercise of a right of way than the exercise of a right

to recreate over the Land. I have referred in paragraphs 5.11 and 5.12 above to the legal framework as set out in the *Laing Homes* and *Oxfordshire* cases. That issue was considered more recently in *Allaway v. Oxfordshire County Council*,<sup>63</sup> referred to in the Applicants' Skeleton Argument,<sup>64</sup> in which Patterson J. rejected a challenge to the decision of a village green inspector who had discounted the use of a circular path running broadly around the perimeter of a claimed green but only to the extent that that route was used by walkers as part of a route from one point outside the land to another. The inspector in that case otherwise treated use of the circular route as referable to the exercise of the right to a green. It is also relevant to note *TW Logistics Ltd v. Essex County Council*,<sup>65</sup> referred to and relied upon by the Applicants, in which the Court found that the general walking and wandering over land in that case, with or without dogs, not on a fixed route, represented "lawful sports and pastimes" rather than an activity akin to use of a public right of way.

6.26 Applying the approach set out in the above caselaw, the overarching test is, as Lightman J. pointed out, how the matter would have appeared to the owner of the Land. I acknowledge that recreational walking, both with and without dogs, is capable of being a lawful sport and pastime. However, it seems to me from the evidence that, insofar as the Land was used **merely** to walk across along a linear route in order to go from one point to another as part of a longer route, such use would appear to a reasonable landowner as being more akin to the exercise of a right of way than a right to recreate over the Land. In circumstances where the user did not stop, wander, deviate, walk around, or otherwise linger on the Land, whether to take in a view or to enjoy the

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<sup>63</sup> [2016] EWHC 2677 (Admin).

<sup>64</sup> At paragraph 18.

<sup>65</sup> [2017] EWHC 185 (Ch).

amenity of the area or to wander around the Land generally or to exercise their dog or for any other recreational reason, then it is my view that such use would suggest to a reasonable landowner that a right of way was being asserted and not a right to recreate over the Land as a whole. That position is similar to the element of use discounted in *Allaway*, where the Inspector distinguished between those who came to the land specifically to walk around it and those who merely used it to get from one point to another as part of a longer route. In relation to the latter use he stated:

*“Of course there may be some using a path along the edge of an open space, or possibly across the middle, simply as part of a route from one point outside the land to another. And that occurred in this case – and I have discounted such use.”*<sup>66</sup>

That approach was upheld by the Court.

6.27 Therefore, I find that the extent to which the Land was used for walking, with or without dogs, in the sense referred to above, such use ought to be discounted from the qualifying use. From the evidence, it seems to me that the majority of such use ought to be discounted accordingly.

6.28 However, even if none of such use is so discounted, it is my opinion from the evidence that the use of the Land for walking, whether with or without dogs, was very limited both in frequency and the amount of time users were on the Land for the reasons set out above.

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<sup>66</sup> See paragraph 33 of the Judgment.

6.29 Another issue arises in relation to such use, namely the effect of the planting. Mr Webb indicated that planting along the border with Sennings Lane commenced around 2009/2010. The thickness of such planting over time is illustrated in various photographs in OB D. It extended to 1.3 meters when the Court Order was made. It is apparent to me from those photographs that certainly from around September 2015 onwards until the planting was removed in June 2016, it would have been difficult to access or egress the Land from or to Sennings Lane. That period of time all falls within the relevant 20 year period.

6.30 In relation to that period, I note the following evidence. Mrs Wall stated that the planting stopped her using the Land, although her children still wandered onto it. Mrs Walton pointed out that it was “*impossible to access*” the Land due to the planting, and that since the planting had taken place, she had stopped crossing the Land. Mr Bond also stated that the recent planting prevented him from crossing the Land. Miss Needham said that the extensive planting in 2016 “*more or less stopped people walking across the Land*”. Prior to that, it was possible to still “*push through*” it. That period in 2016 referred to was within the relevant 20 year period. Mr Jewitt expressed the view that since the planting, there had been a decline in the use of the Land. From such evidence, it appears to me that although it may still have been physically possible to access the Land, the use of the Land for walking significantly declined for a material period of time during the relevant 20 year period.

6.31 Turning to other uses of the Land, a number of similar matters arise in relation to horse riding. As is apparent from the evidence set out above, the various users simply referred to riding “over” the Land and not around it or spending any material time on the Land.

It was not used as a destination. Again, that is largely inevitable given the relatively small area of the Land. Accordingly, it is my view that, from the evidence, such use would have appeared to a reasonable landowner as being more akin to the assertion of the exercise of a right of way, namely a bridleway, rather than the assertion of recreational rights over the Land generally.

6.32 Nonetheless, even if such use was not discounted on that basis, it is my opinion from the evidence that it did not occur with any material degree of regularity in any event. I base that finding in particular on the following. Firstly, references to horse riding over the Land were limited to a few named individuals. Secondly, I note the evidence of Mrs Evangeline Bark, whom I also found to be a particularly credible witness, that there was a laburnum tree overhanging the Land for a considerable period of time which was too low to ride a horse under. That was confirmed by aerial photographs dated 1993 and 2010, both showing the tree. Thirdly, it seems to me that it would have been apparent to the Objectors, and particularly to Mrs Webb who spent so much time in her garden, that horse riders were using the Land if such occurred with any material degree of frequency. Fourthly, from the evidence given of Mr Bowen-Jones, both on behalf of the Applicants and the Objectors, I find it difficult to accept that he would have been content for horse riders to use the Land had he been aware that it was taking place due to the likely ruts in the ground that would have resulted. Fifthly, the planting would have had the effect of deterring horse riders for at least a 9 month period between September 2015 and June 2016.

6.33 As to children's play, I have already indicated my acceptance of the evidence in support of the Application that such use occurred. However, in terms of its extent, I find that it

occurred infrequently. Firstly, the evidence in support of the Application was limited in relation to children's play. The primary points made by those witnesses were as follows. Mrs Wall referred to regularly walking along the road adjacent to the Land whilst her children played on both the Land and the open land on the other side of the road. The impression I gained was that as she walked along, her children diverted off the road onto the adjoining open areas as part of the walk rather than spending any material period of time specifically on the Land. Mr Jewitt, who passed through the village a number of times each day, indicated that he saw children playing on the Land around "*once every couple of weeks*". He pointed out that children played football on the Low Green rather than on the Land, but if the ball went onto the Land, they would go over to retrieve it. Mrs Nixon's evidence was that, although she has lived in Romaldkirk since the end of 2012, she only recalled seeing children on the Land over the last 3 years. Further, Ivan Carter-Becker's evidence was that children's play generally took place on the larger Low Green rather than on the Land. Moreover, such use seemed from the evidence to be largely limited to weekends and holiday periods.

6.34 Secondly, the evidence in support of the Objection indicated that such use did not occur with any degree of frequency. Although I accept that no one could have been aware of what was taking place on the Land when they were not present, I would have expected Mrs Webb, in particular, to have been aware of the use of the Land for children's play, or any other use, had it occurred regularly. I accept her evidence that she was outside in her garden frequently over the relevant 20 year period and was unaware of any such use.

6.35 Thirdly, the nature of the Land is inconsistent with it having been used regularly for children's play. It is relatively small and unsuitable for such use. Fourthly, there are a number of open areas in the immediate vicinity much more suitable for children's play than the Land and there is no apparent reason why the Land would be used for such purpose in such circumstances. Fifthly, Mr Bowen-Jones would have been unlikely to tolerate such use had it occurred on the Land for the reasons referred to above. Sixthly, I accept the evidence of Mr Webb, supported by Mrs Webb and Mrs Evangeline Bark, that building materials were stored on the Land from time to time between 2005 and 2014. Indeed, that is further supported by a wholly independent Google photograph produced dated approximately 2006 showing pallets stored on the Land.<sup>67</sup> Such building materials being stored on the Land would have made it even more unsuitable for children's play.

6.36 A number of witnesses also referred to the Land being used for spectating during annual events such as the Village Fair Day and the Beamish Rally. However, I am not satisfied that such qualifying use occurred on the Land to any extent other than by the Objectors. None of the witnesses who gave evidence in support of the Application indicated that they had personally used the Land on any of those occasions. Although they referred to others having so used the Land, I am unaware from the evidence whether any such persons were local inhabitants of Romalldkirk. The Beamish Rally in particular was attended by many visitors from outside the village. Further, I accept the evidence of the Objectors that on the occasions when they or their family spectated from their Land, no other persons did so other than their friends, and the friends and family of Mr Bowen-

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<sup>67</sup> At OB D5.

Jones. That is supported by the photographic evidence produced. In any event, such events were, by their nature, occasional.

6.37 Other recreational uses of the Land referred to were minor elements of the claimed local activities on the Land. The evidence was disputed as to whether Mr Ivan Carter-Becker had used the Land for his personal training sessions between 2004 and 2006. However, such use was by one individual for a limited period and whilst using the other open spaces in the area. There is no evidence of the Land being used regularly by the local community for such form of recreational activity. The evidence was also disputed as to whether a group of Duke of Edinburgh youngsters used the Land to have their lunch on, as referred to by Mr Nixon and contested by Mrs Webb. However, that was one occasion only. There was no evidence that the Land was regularly used for picnicking. Moreover, there is no evidence that the youngsters from Barnard Castle School were inhabitants of Romaldkirk, and I am unable to make that assumption.

6.38 Taking all the evidence in its totality, both oral and written, in relation to all the claimed recreational uses of the Land during the relevant 20 year period, it is my firm view that the qualifying use over the 20 year period was, at its highest, irregular and sporadic rather than of such a nature that would indicate to a landowner that recreational rights were being asserted over the Land. Consequently, I find that it has not been demonstrated that the qualifying use was by a significant number of the inhabitants of the locality of Romaldkirk throughout the relevant 20 year period, and so conclude that that element of the statutory criteria has not been established.

### **Use as of Right**

6.39 The next issue I turn to is whether the use of the Land has been “as of right” during the relevant 20 year period, namely without stealth, without force and without permission.

*Nec clam*

6.40 There was no suggestion in any of the evidence that any of the use was by stealth. On the contrary, the use which occurred was carried out openly during daylight hours and without any element of secrecy. I therefore find that the use of the Land relied upon in support of the Application has been *nec clam*.

*Nec vi*

6.29 As to whether the use was carried out with force, the Objectors contended in their closing submissions that the use was by force due to Mrs Carter having forcibly removed the planting on the Land contrary to the Court Order made in the separate civil proceedings. It is not open to myself, or the Registration Authority, to make any rulings in relation to those separate proceedings. Moreover, the relevant issue is whether the qualifying recreational use of the Land was carried out with force rather than whether the planting was removed with force. In relation to that relevant issue, I find that there is no evidence that the qualifying use itself which took place was carried out with force, such as by climbing over a fence or being contrary to a sign or being contrary to challenges. I therefore find that the use of the Land relied upon in support of the Application has been *nec vi*.

*Nec precario*

6.30 There is a dispute between the Parties over whether the use was carried out with permission. The Objectors contend that express permission was conferred by the Deed

dated 4 September 1930<sup>68</sup> by which the Lord of the Manor of Romalldkirk gave permission to the public to have access over a number of parcels of land, including the Land. As that permission has never been revoked, the public's use of the Land has accordingly been with permission. In response, the Applicants contend that, as a matter of law, the Commons Registration Act 1965 had the effect of extinguishing that permission.

6.31 The 1930 Deed conferred rights of common on the villagers of Romalldkirk over a number of parcels of land, including the Land, comprising waste land of the Manor of Romalldkirk. It also conferred a right of access to the villagers to all such land. The Deed expressly provided that section 193 of the Law of Property Act 1925 applied to it. The rights of access to the Land under the Deed were enshrined in that provision. Section 193(1)(d)(i) provides that such rights of access shall cease to apply to any land over which the commonable rights are extinguished under any statutory provision. The commonable rights over the Land referred to in that Deed, and hence the rights of access, were extinguished on 31 July 1970 by virtue of section 1 of the Commons Registration Act 1965 as they were not registered by that date. Consequently, I find that the express permission for villagers to access the Land was extinguished by operation of the law on that date.

6.32 There was no suggestion in the evidence or submissions of any other express or implied permission being given for the use of the Land for recreational purposes. Therefore, I find that the use of the Land relied upon in support of the Application has been *nec precario*.

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<sup>68</sup> At OB E1.

## **Continuation of Use**

6.33 The remaining issue is whether the qualifying use continued up until the date of the Application, namely 20 October 2016. The Land remains open to public access as evidenced on my site visit and the evidence indicated that it continues to be used for some recreational purposes. Therefore, subject to all the matters set out above, I find that the qualifying use was continuing as at the date of the Application.

## **7. CONCLUSIONS AND RECOMMENDATION**

7.1 My overall conclusions are as follows:-

- 7.1.1 That the Application Land comprises land that is capable of registration as a town or village green in principle;
- 7.1.2 That the relevant 20 year period is October 1996 until October 2016;
- 7.1.3 That the locality of Romaldkirk amounts to a qualifying locality;
- 7.1.4 That the Application Land has been used for some lawful sports and pastimes during the relevant 20 year period;
- 7.1.5 That the use of the Application Land for lawful sports and pastimes has been carried out as of right;
- 7.1.6 That the Application Land has not been used for lawful sports and pastimes by a significant number of the inhabitants of the claimed qualifying neighbourhood throughout the relevant 20 year period; and
- 7.1.7 That the use of the Application Land for lawful sports and pastimes continued up until the date of the Application.

7.2 In view of those conclusions, it is my recommendation that the Registration Authority should reject the Application and should not add the Application Land or any part of it to its register of town and village greens for the reasons contained in this Report, and on the specific ground that the Applicants have failed to establish that the Application Land has been used for lawful sports and pastimes as of right by a significant number of the inhabitants of a locality or neighbourhood within a locality throughout the relevant 20 year period.

## **8. ACKNOWLEDGEMENTS**

8.1 Finally, I would like to thank the Applicants, the Objectors, and the representatives of the Applicants for the very helpful manner in which the respective cases were presented to the Inquiry. I would further like to express my gratitude to the representatives from the Registration Authority for their significant administrative assistance prior to and during the Inquiry.

8.2 I am sure that the Registration Authority will ensure that both Parties are provided with a copy of this Report, and that it will then take time to consider all the contents of this Report prior to proceeding to reach its decision.

**RUTH A. STOCKLEY**

08 August 2019

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